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## APPENDIX A

### **One-Stop Mortgage Center Initiative Partners**

Allied Mortgage  
American Appraisal Associates  
American Homeowner Education and Counseling Institute  
Amerind Risk Management Corporation  
Bank of America  
Bank One Mortgage  
Bank One, N.A.  
Bering Straits Regional Housing Authority  
Blackfeet National Bank  
Chee Law Offices, P.C.  
Chickasaw Nation  
Choctaw Housing  
Citizen Potawatomi Nation  
Citizen Potawatomi Nation Housing Authority  
Citizens Bank  
Coeur D'Alene Tribe  
Community Development Financial Institution Fund  
Corporation for Enterprise Development  
Countrywide Home Loans  
Crow Tribe  
Dorsey & Whitney  
The Enterprise Foundation  
Fannie Mae  
Fannie Mae Foundation  
Federal Deposit Insurance Corporation  
Federal Home Loan Bank of Des Moines  
Federal Home Loan Bank of San Francisco  
Federal Housing Finance Board  
Federal Reserve Bank of Kansas City  
Federal Reserve Bank of Minneapolis  
Federal Reserve Bank of San Francisco  
Federal Reserve Board of Governors  
First American Credit Union  
First Americans Mortgage Corporation  
First Heritage Bank  
First National Bank of Colorado  
First National Bank of Farmington  
First National Bank of Santa Fe

First Nations Development Institute  
First Nations Oweesta Corporation  
First Security Bank of New Mexico  
Fond du Lac Tribal College  
Forest County Potawatomi Community  
Fort Berthold Housing Authority  
Fort Defiance Housing Corporation  
Fort Mojave Indian Housing Authority  
Fort Mojave Indian Tribe  
Freddie Mac  
Gallup Federal Savings Bank  
Ginnie Mae  
Great American Title Agency  
Housing Assistance Council  
IHA Management Systems, Inc.  
Indian Health Service  
Indigenous Planners Network  
Inter Tribal Council of Arizona, Inc.  
Jewell Carol Enterprises  
Judicial Branch of Navajo Nation  
Kayenta Township Commission  
Kiowa Tribal Housing Programs  
Lac Vieux Desert Tribe  
Laguna Housing Development & Management Enterprise  
Lakota Fund  
Michael P. Upshaw, Attorney at Law  
Morongo Housing Authority  
Mortgage Bankers Association  
National American Indian Housing Council  
National American Indian Tribal Court Judges Association  
National Association of Affordable Housing Lenders  
National Bank of Alaska  
Native Homes and Gardens  
Navajo Housing Authority  
Navajo Land Department  
Navajo Nation, Community Development Division  
Navajo Nation Council, Office of the Speaker  
Navajo Nation Department of Justice  
Navajo Nation Division of Economic Development  
Navajo Nation Historic Preservation Department  
Navajo Nation, Office of the President and Vice President  
Navajo Partnership for Housing, Inc.  
Navajo Townsite Community Development Corporation

Navajo Tribal Utilities Authority  
Navajo Utah Commission  
Neighborhood Housing Services of Santa Fe  
Neighborhood Reinvestment Corporation  
New Mexico Community Development Loan Fund  
New Mexico Mortgage Finance Authority  
New Mexico Rural Development Response Council  
Nez Perce Housing Authority  
Nordhaus Law Firm  
North American Native Bankers Association  
Northern Cheyenne Tribe  
Northern Circle Indian Housing Authority  
Norwest Mortgage, Inc.  
Office of the Comptroller of the Currency  
Office of Navajo Government Development  
Office of Thrift Supervision  
Oglala Sioux Lakota Housing Authority  
Oglala Sioux Tribe  
Oglala Sioux Tribe Partnership for Housing, Inc.  
Oneida Nation of Wisconsin  
Oneida Planning Department  
Pascua Yaqui Housing Dept.  
Patton Boggs, LLP  
PMI Mortgage Insurance Co.  
Pricewaterhouse Coopers, LLP  
Pueblo of Acoma Housing Authority  
Quinault Indian Nation  
Rural Community Assistance Corporation  
Rural Utilities Service  
Saginaw Chippewa Housing  
Salish Kooteni Confederated Tribes  
Seminole Tribe of Florida  
Sicangu Enterprise Center  
Standing Rock Sioux Tribe  
State of New Mexico, Office of Indian Affairs  
Stetson Law Offices, P.C.  
Stewart Title Guaranty Co.  
Suburban Mortgage  
Three Affiliated Tribes  
Tribal Code Services, Inc.  
Tulalip Tribal Housing Authority  
The Tulalip Tribes  
Twilight Dawn, Inc.

Upper Skagit Indian Tribal Housing Authority  
U.S. Army Reserves  
U.S. Department of Agriculture—Rural Development: Rural Housing Services and  
Rural Utilities Services  
U.S. Department of Defense  
U.S. Department of Housing and Urban Development; Federal Housing  
Administration and Office of Native American Programs  
U.S. Department of Interior—Bureau of Indian Affairs and Bureau of Reclamation  
U.S. Department of Justice—Office of Tribal Justice  
U.S. Department of Treasury  
U.S. Department of Veterans Affairs  
U.S. Navy Seabeas  
Walking Shield  
Washington Mutual Bank  
Wells Fargo Bank  
Wells Fargo Home Mortgage, Inc.  
White Mountain Apache Housing Authority  
Wright & Associates  
Zeh, Polaha, Spoo, Hearne & Picker  
Zions Bank

## APPENDIX B

### **Shared Visions: Guide to Creating a Nonprofit Homeownership Entity**

Due to the length of the guide (126 pages) we suggest that you request it from:

U.S. Department of Housing and Urban Development  
Office of Native American Programs  
Room 4126  
451 Seventh Street, SW  
Washington, DC 20410  
(202) 401-7914

It is also available on their Web site at:

**<http://www.codetalk.fed.us/Products.html>**

Look under tribal Technical and Assistance Center Request for Documents.





## APPENDIX C

### **Summary of Navajo Nation One-Stop Mortgage Center Pilot Site**

#### ***Introduction***

President Clinton selected the Navajo Nation as a pilot site for the One-Stop Mortgage Center Initiative for several reasons.

- First, the need on the Navajo reservation for housing is immense. The Navajo Housing Authority (NHA) estimates it needs 21,000 new housing units to satisfy the unmet needs of all Navajo families—including 12,000 new homeownership units.
- Second, the legal infrastructure to support mortgage financing was already in place in Navajo law. In 1996, Fannie Mae partnered with the Navajo Nation Department of Justice to draft a standard lease, mortgage and note for use with conventional and Federal lending programs. Third, the Navajo government had already created a nonprofit on the reservation to provide homebuyer counseling and assist Navajo families to obtain mortgage financing—called the Navajo Partnership for Housing, Inc. (NPH). Also, the Navajo Housing Authority had placed a high priority on promoting homeownership for its residents. NHA was exploring new products and programs to convert mutual help housing to homeownership.
- Finally, there was a strong commitment on the part of the Navajo government to promote homeownership opportunities. Both President Kelsey Begay and Navajo Nation Council Speaker Edward Begay were open to partnering with this national initiative to improve the housing situation on the Navajo Nation as well as to serve as a model for other tribal communities.

#### ***Profile of Navajo Nation***

The Navajo Nation is the largest Indian reservation in the United States and, with 219,000 people, represents approximately 12 percent of the total Indian population. The mostly rural reservation spans across three states—Arizona, New Mexico and Utah. Nearly 58 percent of people on the Navajo reservation are below the poverty level, and the unemployment rate is 54 percent.

According to the FY2000 Indian Housing Plan for the Navajo Nation prepared by the Navajo Housing Authority, many Navajo families live with extended families in overcrowded conditions. A majority of families are unable to qualify for mortgage loans due to lack of credit, credit problems or lack of finances to make down payments. As a result, many Navajo families' only option for housing is to purchase a

mobile home. In some cases, families may be able to qualify for mortgages, but they are unable to obtain a homesite site lease or locate a lender to offer the financing.

The 1990 Census indicates that the Navajo population is young and growing steadily. Education levels and employment opportunities are improving, increasing the numbers of potential homeowners seeking mortgage financing. For this reason, in the mid-90s the Navajo Nation government began exploring how to help these families.

### ***Navajo Partnership for Housing, Inc.***

In 1995, officials from the Navajo Nation's Division of Economic Development and Division of Community Development invited the Neighborhood Reinvestment Corporation (NRC) to the Navajo Nation to investigate the feasibility of establishing a nonprofit housing entity to promote homeownership through mortgage lending on the reservation. After a lengthy organizing process involving numerous individuals from the financial institutions on or near the Navajo Nation, the Neighborhood Reinvestment Corporation, Federal and tribal officials and many local Navajo residents, the corporation was formed in mid-1996 and began operations in late 1996.

The Navajo Nation Divisions of Economic Development and Community Development served as the corporate organizers and initial funders of NPH. NRC provided capital and technical assistance throughout the organization's creation and helped NPH to become certified as a NeighborWorks Organization. In addition, the Bureau of Indian Affairs and other tribal officials were involved in its organization.

As its programs have evolved, NPH created partnerships with public and private sector players. For example, NPH works with the U.S. Department of Agriculture's Rural Development division and the Housing Assistance Council to prepare borrowers for its loan guarantee and grant programs. NPH has established similar relationships with HUD, private lenders and Fannie Mae.

Budget NPH began in 1996 with an operating budget of \$270,000 and \$25,000 in capital resources for its revolving loan fund and housing development. For FY1998, NPH had an operating budget of \$624,000 with approximately \$450,000 in revolving loan and grant assistance funds. For FY1999 it had an operating budget of \$610,000 with \$375,000 in revolving loan and grant assistance funds. And, for FY2000, its operating budget is \$889,000; with \$702,508 in revolving loan and grant assistance funds; and planned capital projects of \$2,535,000.

NPH receives a large portion of its funding through HUD's Indian Housing Development Block Grant program (NAHASDA). It also receives capital and operating grants from the Neighborhood Reinvestment Corporation. Other sources of funding include the Navajo Nation, Housing Assistance Council, private lenders and

foundations, the Federal Home Loan Bank, HUD counseling funds through the New Mexico Mortgage Finance Authority and HUD SHOP funds through NRC.

Board of Directors NPH is governed by a 21-member board made up of one at-large, eleven resident, four government and five private sector categories. The current board are: President—Chavez John, Division of Community Development; Vice President—Loretta Nez, Navajo Department of Justice; Secretary—Jennifer Hattathlie, Norwest Bank; Treasurer—Jerry Spurlin, Gallup Federal Savings Bank; Grant Benally, Navajo Nation Chinle Agency; David Clark, Zions Bank; Cathy Coleman, First National Bank of Farmington; Alfred Dehiya, Navajo Land Department; Dale Dedrick, First American Credit Union; Dave DeVore, Community Member; Jeff Howle, Citizens Bank; Benjamin Jones, Division of Community Development; Ronald Maldonado, Navajo Historic Preservation Department; Benjamin Price, Community Member; Clarence Rockwell, Navajo Utah Commission; William Bruce Scott, Navajo Housing Authority; Walt Taylor, USDA—Rural Development; Johnny Thompson, Navajo Election Administration; Denise Sosie, Salt River Project; Mark Wandlerlinden, Fannie Mae NM Partnership Office; and Bessie Yellowhair, community member.

Executive Director and Staff Navajo tribal member Richard Kontz has been the executive director of NPH since 1998. After serving 17 years in a number of financial analyst positions throughout the Navajo Nation government, he joined NPH because he had a desire to work in housing development, mortgage financing and the nonprofit environment. He has overseen a substantial increase in NPH's budget, has almost tripled the staff and has developed a broad expansion of its services.

NPH has thirteen staff members. In addition to the executive director, NPH currently employs a financial manager, project development manager, program services director, loan packager, five homebuyer training specialists, two construction specialists and an administrative assistant.

Services of NPH The Navajo Partnership for Housing has successfully helped Navajo families navigate through this burdensome mortgage lending process. It has also been an active advocate for reforms on the local and national levels to help streamline the mortgage lending process in Indian country. Specifically, NPH has identified barriers to homeownership and garnered local and national support to help overcome those barriers. It was due partly to NPH's leadership that President Clinton launched the One-Stop Mortgage Center Initiative to reform mortgage lending in Indian country. Other services NPH provides include:

- *Homebuyer Education* NPH developed a homebuyer education curriculum customized for the Navajo Nation called "Sheltering Our People." The program includes both pre- and post-purchase counseling in an effort to prepare Navajo

families for the opportunities and responsibilities of homeownership and to assist them in maintaining and retaining the home after closing.

- *Loan Services* NPH is working with all loan products available on the Navajo Nation, including HUD 184, Fannie Mae Conventional, Rural Development 502 Direct and Guaranteed, and the Navajo Nation Credit Services mortgage. To make these loan products more accessible for Navajo families, NPH offers secondary financing in the form of downpayment and closing cost assistance as well as principal reduction. Also, NPH is developing an interim construction loan pool to provide construction financing for approved mortgage loans. NPH has a HAC-funded loan packager to assist in packaging Rural Development loans and has signed a Loan Origination Agreement with a lender allowing NPH to originate residential mortgages in the name of the lender within the States of New Mexico and Arizona on the Navajo Nation.
- *Construction Services* Since there is little existing housing stock available for resale on the Navajo Nation, most families are interested in new construction on an individual homesite lease on scattered sites or in a subdivision development. NPH's construction specialists assist families in identifying floor plans and in the development of bid specifications for construction contracts. They also assist the client to bid out the construction contract and then help during the contract negotiations and construction management periods. Similar services are provided for owner-occupied renovation projects. NPH also provides technical assistance to Navajo contractors who want to get licensed to qualify for the preferred contractor list with the Navajo government.
- *Real Estate Development Services* NPH will serve as a project manager for any Navajo Nation Chapter (local government) or nonprofit entity that is planning, designing and/or developing housing and related community or economic development projects on the Navajo reservation. Also, NPH will begin acting as a "real estate broker" on land and home sales within the Navajo Nation. Along these lines, NPH has been attempting to facilitate the buying and selling of houses or vacant lots in order to get the real estate market moving to provide housing for some of its clients.

### ***Navajo Housing Authority Mortgage Concept***

NHA recently began an initiative to replace its mutual help program. This homeownership program will include four new mortgage products to meet the needs of the Navajo people and to establish a bridge to conventional financing. NHA's goal is to educate their residents to help them understand that owning home is an investment that will build equity in their lives. Currently, many Navajo families place a higher value in owning a vehicle rather than a home, due to the vast distances they

must travel for employment and other reasons. However, NHA is promoting the benefits of homeownership—especially equity financing through which families will have access to start-up capital for private business or college tuition and the ability to take advantage of the tax deductible mortgage interest.

An important component of the mortgage program is an Memorandum of Agreement between NHA and NPH. This agreement established a partnership through which potential homebuyers using NHA mortgage products will be referred to NPH for homebuyer education and loan packaging.

Another key feature of the program is the new NHA subdivision masterlease. Currently, a Navajo family can only build a home on a timesite lease in its home Chapter within the family's grazing area. The new masterlease standardizes title conveyance, transfer and encumbrance and includes subleases with a 50-year term. Not only does this allow a Navajo family from one Chapter to purchase a home in an NHA subdivision in another Chapter, it streamlined the tribal review process of a masterlease from thirteen reviewers to one tribal committee review.

The four mortgage products that NHA will offer include:

- *NHA Direct Home Loan*—This product will be designed to reach homebuyers with credit, debt ratio, or income issues and will serve as a bridge to mortgage financing. It involves a guarantee from NHA and a mortgage buy down using NAHASDA funds. NHA will work with the family on debt restructuring and post-purchase counseling until the family can re-finance into a traditional mortgage product.
- *Navajo Nation Community Homeownership Program*—This product will be designed to reach homebuyers with debt ratio or income issues. It requires a 24-month satisfactory credit performance in addition to a good faith effort to clearing old outstanding credit items on the credit report. It also includes a NHA guarantee and NAHASDA buy down.
- *Navajo Housing Authority Guarantee Initiative (Fannie Mae)*—This initiative allows a lender to offer a conventional loan to borrowers whose credit or cash for closing are not adequate under Fannie Mae's standard products. It allows the borrower's cash contribution to be as low as one percent of the sales price, for those whose income is at or below the U.S. median. NHA will provide a guarantee to Fannie Mae through a reserve account funded out of closing proceeds.
- *Navajo Nation Conventional Lending Initiative (Fannie Mae)*—This initiative allows lenders to offer a conventional loan similar to Fannie Mae's Community Home Buyer Program. There are no income limits for this program.

The NHA Direct and Community Homeownership loan products include a mortgage buy down to make homeownership affordable to as many Navajos as possible. The buy down is a NAHASDA-funded grant and will be structured as a soft second mortgage that will be forgiven over 10 years. In year ten, the entire balance of the buy down will represent equity to the homebuyer.

### ***Other Homeownership Developments on the Navajo Reservation***

Fort Defiance Housing CorporationThe Fort Defiance Housing Corporation recently broke ground for a new, 15-unit subdivision in Fort Defiance, AZ. This development is funded through NAHASDA and will offer homeownership opportunities for residents through lease-purchase agreements.

Kayenta TownshipThe Kayenta Township is a unique form of local government on the Navajo Nation. Unlike the traditional Chapter government structure, the township is more similar to a municipality. It has withdrawn land from the tribe under a master lease and established a local sales tax to serve as a source of revenue for governmental purposes. The Harvard Project on American Indian Economic Development recognized the Township this year through its program called *Bringing Contributions in the Governance of American Indian Nations*.

The Township recently broke ground for the first phase of a \$40 million, 230-unit NAHASDA and USDA-funded housing project. Sixty homes are slated for completion in October 2000. Residents of Kayenta, AZ will submit applications for the homes through lease-purchase agreements with the Township. The Navajo Partnership for Housing will be conducting education programs for these residents. In addition, the Kayenta Township is developing a \$1.9 million women's shelter and \$778,000 day care center.

Kerrigan EstatesThe Navajo Nation's Division of Economic Development is developing a 230-unit homeownership subdivision in Michaels, AZ. In May 2000, they will begin installing infrastructure. This project is on fee simple land and will also include an 86-unit apartment building. It is targeted to tribal members who work for the tribe in Window Rock, AZ—the Nation's capital.

### ***One-Stop Working Group***

#### Getting Organized

HUD's Office of Native American Programs and the Department of the Treasury kicked off the One-Stop Mortgage Center Initiative by convening a meeting in Window Rock, Arizona on November 18, 1998. Navajo officials, lenders and

representatives from Federal agencies participated in workshops to identify the barriers to mortgage lending on Indian reservations, and to develop recommendations and solutions to eliminating those barriers. A listing of barriers was organized into similar issues. This led to the identification of four “national” issues and the need to address “local/Navajo Nation” issues. At this Window Rock meeting, HUD and Treasury asked for volunteers to join both the national and local working groups to ensure that the task force developed a comprehensive listing of barriers and specific recommendations for increasing mortgage lending in Indian country.

The Navajo working group is chaired by Richard Kontz, Executive Director of the Navajo Partnership for Housing, Inc. (NPH) and Chester Carl, Executive Director of the Navajo Housing Authority (NHA). The group is comprised of representatives from several departments of the Navajo Nation government including the Office of the President and the Office of the Speaker of the Navajo Nation Council, lenders, Bureau of Indian Affairs, U.S. Department of Agriculture, Fannie Mae, Indian Health Services, Navajo Tribal Utilities Authority, New Mexico Mortgage Finance Authority, nonprofit developers and local Navajo governmental entities. The working group is facilitated by the HUD Community Builder from the Southwest Office of Native American Programs.

The group began meeting monthly to identify barriers to mortgage financing and homeownership for Navajo families. They developed the following goals:

- To streamline Navajo Nation and Federal Government review and approval processes for homesite leases, master leases, and mortgage loan documents;
- To promote comprehensive land-use planning and infrastructure development;
- To develop a comprehensive consumer guide about the mortgage lending process;
- To clarify Federal and Navajo Nation requirements for environmental and archeological clearances;
- To explore ways to expedite the process of obtaining clear title to real property; and
- To support the growth of private markets on the Navajo reservation.

In April 1999, Jackie Johnson, HUD Deputy Assistant Secretary of the Office of Native American Programs, and Michael Barr, Treasury Deputy Assistant Secretary of Community Development Policy, met with Edward Begay, Speaker of the Navajo Nation Council and Vice President Taylor McKenzie, M.D. to formalize the partnership between HUD, Treasury and the Navajo Nation.

In June 1999, the working group briefed several standing committees of the Navajo Nation Council on their findings. The committees passed a resolution endorsing working group’s efforts and directed the group to present specific recommendations to the appropriate committees of the Council. During the HUD ONAP Summit at the

Pine Ridge reservation in July 1999, Speaker Begay delivered a report to President Clinton summarizing the activities of the Navajo working group to implement the President's directive to streamline mortgage lending in Indian country.

The working group continues to coordinate with the appropriate divisions of the Navajo government and the Bureau of Indian Affairs to implement improvements in the system that can be accomplished through administrative changes. In addition, on behalf of the working group, NPH has retained legal counsel to research existing Navajo law and to draft legislative amendments.

### Mortgage Lending Process on Navajo Nation

When the One-Stop Mortgage Center pilot began on the Navajo reservation, residents faced many hurdles in their pursuit of homeownership. The process was unclear, causing many homebuyers to get discouraged and abandon their plans. With assistance from many of the partners in the initiative, some families persevered and it is now more clear of all the steps necessary to complete the process. As of March 2000, 23 families have obtained private or public mortgage financing on the Navajo reservation through the Navajo Partnership for Housing. Ten more families will be closing their loans in the near future.

The process Before an individual can apply to a lender for a mortgage loan, he or she must obtain a homesite lease from the tribe to use as collateral for the loan (if the intended location of the home is on tribal trust land). The homesite lease application process involves surveying the land, obtaining permission from the appropriate grazing permittees who have a right to use the land, and getting an archeological clearance.

After having completed these steps, the Navajo Land Department (NLD) and the Bureau of Indian Affairs (BIA) must approve the applicant's package. Upon approval, the BIA title plant must record the homesite lease. The individual must then request a BIA Title Status Report (TSR) and a BIA Categorical Exclusion from environmental assessment requirements, if appropriate. Obtaining a homesite lease can take anywhere from 6 months to 2 years.

At this point, the individual is ready to file an application with a lender to begin the mortgage loan process. If the home will be located on allotted land, a homesite lease is not required, but the individual must obtain clearances from the allottees and/or partition a homesite before he or she can begin the loan application process.

The Navajo Nation working group of the One-Stop Mortgage Center Initiative continues to meet monthly to accomplish its goals. To date, some of its accomplishments include:



### *Streamlining Navajo Nation and Federal Processes*

#### **Barrier**

The homesite lease application process is confusing and burdensome for Navajo residents, and the process differs by agency office.

#### **Solution**

The Navajo Nation Land Department and the Navajo Region Bureau of Indian Affairs worked together to develop a draft “Joint Homesite Lease Policy and Procedures for Tribal Trust Lands.” In addition, they developed a fact sheet about eligibility and uses of homesite leases. Once this guidance is finalized, it will be included in the *Navajo Consumer Guide to the Mortgage Process* discussed below.

#### **Barrier**

Homesite lease applicants face considerable delays in obtaining surveys and archeological clearances from the tribe due to a lack of tribal resources to provide these services. By seeking private providers, the process could be shortened.

**Solution**

The Navajo Land Department is promoting the use of private surveyors and archeologists for homesite leases by providing applicants with a list of licensed professionals in their areas. Also, in some cases, Navajo Housing Authority surveyors may be available to homebuyers. This information will be included in the Navajo *Consumer Guide to the Mortgage Process* discussed below.

**Barrier**

The BIA approval processes for encumbrances on homesite leases, i.e. leasehold - mortgages, and credit packages for mortgages on allotted land, i.e., trust mortgages, are time consuming and sometimes exceed the length of time most lenders extend their credit offers.

**Solution**

The Navajo Regional BIA office has agreed to fax its approval letter directly to the lender, if requested, so that the loan can be processed simultaneously with the title request from the BIA title plant in Albuquerque.

*Promoting Land-Use Planning and Infrastructure Development***Barrier**

It is time consuming and expensive for individual Navajo residents to get the necessary surveys, and environmental and archeological clearances necessary to obtain a homesite. Also, many Navajo communities lack basic and adequate infrastructure and neighborhood support services.

Navajo residents must go through a lengthy application process to obtain a homesite lease from the Navajo Land Department. The location of the homesite is based mostly on the applicant's preference. However, if the local Chapters of the Navajo government were able to zone land in their jurisdictions, they could designate areas for residential purposes, obtain the necessary surveys and clearances in advance, and develop infrastructure and other community support services. Through land-use planning, Chapters would be able to minimize potential conflicts with grazing permittees. Therefore, when a resident decided to build a home, the homesite lease approval process would not be as cumbersome or expensive.

## **Solution**

Land-Use PlanningThe Office of Navajo Government Development obtained \$1.2 million in funds through the Native American Housing Assistance and Self-Determination Act (NAHASDA) to coordinate land-use planning and technical assistance for 30 Chapter governments within the Navajo Nation. The land-use technical assistance is being provided by private consultants procured by the Office of Navajo Government Development and the Navajo Housing Authority. The objective is to develop community-based land-use plans, with an emphasis on designating land for affordable housing and to plan and coordinate infrastructure development. The development of the plans will be in accordance with the Navajo Nation Local Governance Act.

The basic scope of services of the consultants covers:

- Community Assessment
- Suitability Analysis
- Infrastructure Analysis
- Land-Use Plan and Corresponding Maps
- Comprehensive Report and Implementation Recommendations

To qualify for the consultant services, the Chapters had to meet certain criteria to establish their commitments to the planning project and to making land available for housing, community facilities and infrastructure development. In November 1999, 30 Chapters were selected to receive the planning assistance.

Infrastructure DevelopmentThe lack of physical infrastructure on the Navajo reservation is a problem that plagues all development projects, not just housing. The Navajo Nation has identified improving infrastructure development as a top priority issue. The One-Stop working group recommended that Navajo families pursuing homeownership would benefit from better coordination between the Navajo Nation government, Indian Health Services (IHS), Bureau of Indian Affairs and the Navajo Tribal Utility Authority (NTUA).

As a result of this recommendation, the Office of Navajo Government Development and the Divisions of Community Development and Economic Development are coordinating an Infrastructure Round Table during the Summer of 2000 to identify ways to coordinate better infrastructure development within the Navajo Nation. Based on the results of the Round Table, focused workshops or seminars will be organized to educate local communities about how to achieve a more streamlined infrastructure development process.

### *Developing a Navajo Consumer Guide to the Mortgage Lending Process*

#### **Barrier**

Navajo residents have to work with many different tribal and Federal agencies to obtain a mortgage. The Navajo Partnership for Housing, Inc. and the Navajo Housing Authority assist families to prepare for homeownership and, to a limited extent, can help them navigate through the bureaucracy. However, there is no comprehensive summary of the home site lease and mortgage lending process.

#### **Solution**

The working group is compiling new guidance from the Navajo Land Department, Bureau of Indian Affairs, Navajo Nation Historic Preservation Department, IHS, NTUA to be included in a comprehensive consumer guide. The guide will also include a list of resources for homebuyers including lenders, contractors, surveyors, architects, archeologists, appraisers, housing providers, homeownership counselors, etc.

In addition, the guide will feature a flow chart of the mortgage lending process on the Navajo reservation which was developed by the Navajo Partnership for Housing, Bureau of Indian Affairs and the Navajo Land Department.

### *Clarifying Requirements for Environmental and Archeological Clearances*

#### **Barrier**

Navajo residents are often uncertain about when an environmental or archeological clearance is required.

#### **Solution**

The Navajo Nation Historic Preservation Department developed a guidance regarding archeological clearances for families seeking homeownership. Once the guidance is finalized, it will be included in the *Navajo Consumer Guide to the Mortgage Process* discussed above.

The Navajo Partnership for Housing is developing similar guidance for environmental clearances.

### *Exploring Ways to Expedite Clear Title Process*

#### **Barrier**

The amount of time it takes to obtain a Title Status Report (TSR) exceeds the normal processing time for private mortgage financing.

#### **Solution**

The legal counsel hired by the Navajo Partnership for Housing will be exploring ways to expand access to title records through the BIA.

The Navajo Housing Authority, in partnership with the BIA Albuquerque Title Plant, established a joint title examiner position to streamline processing of NAHASDA-related TSRs between the Navajo Area Office and the Albuquerque Title Plant.

### *Supporting the Growth of the Private Mortgage Market*

#### **Barrier**

Mortgage lenders are unfamiliar with doing business on the Navajo reservation and are reluctant to enter the market.

#### **Solution**

The working group organized a Lenders Forum in November 1999 in Gallup, NM to educate lenders about the mortgage lending process on the Navajo reservation. Speakers included representatives from Navajo Partnership for Housing, BIA, Navajo Nation Land Department, Navajo Housing Authority, and HUD. Also, lenders who had experience making mortgage loans on the reservation shared their perspective. Navajo Nation Council Speaker Edward Begay delivered the keynote address and emphasized the Nation's commitment to creating an environment conducive to private financing.

The Navajo Partnership for Housing compiled workbooks for lenders which included key contacts and a summary of the mortgage loan products available on the Navajo reservation.

The day was highlighted by a loan closing at the conclusion of the forum. Suburban Mortgage and the First National Bank of Colorado closed one of the first conventional mortgage loans in Indian country. Suburban used a Fannie Mae product to extend the permanent financing. First National Bank of Colorado had made the construction loan.

### **Barrier**

Although Navajo common law provides the legal infrastructure for foreclosures on the Navajo reservation, a comprehensive review of the Navajo Code is necessary to help promote mortgage financing and a private real estate market on the reservation.

### **Solution**

The Navajo Partnership for Housing, Inc. retained Margrave-Celmins, a law firm from Scottsdale, AZ with an extensive Indian law practice to identify necessary revisions to Navajo law to facilitate private real estate transactions on the reservation. The lead attorneys will be Michael Upshaw, former Attorney General of the Navajo Nation and Lat J. Celmins, a real estate and administrative law practitioner.

The working group established a legal review committee to work with the firm. This committee includes representatives from the Navajo Nation Department of Justice, Navajo Partnership for Housing, Navajo Housing Authority, the Speaker's Office and HUD.

### **Barrier**

It is difficult to get an accurate appraisal of property on the Navajo Nation.

### **Solution**

The local working group is compiling a list of appraisers who are willing to work on the reservation for inclusion in the consumer guide and distribution to local lenders. In addition, appraisers in Albuquerque have agreed to establish an appraisal internship program for Navajos.

The Navajo Housing Authority has conducted appraisals on all of its housing stock to promote equity financing for rehabilitation and small business. This project involves inspecting and appraising over 7,000 homes. Mutual-help residents will then be able to use the equity in their home for equity financing, and public rental residents will have the option of buying their homes.

This program includes the training through a national appraisal society of three Navajo individuals to attain certification to conduct appraisals on homes on the reservation.

*Lessons Learned by Navajo Working Group*

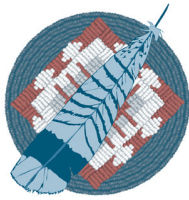
After nearly a year of monthly meetings, the Navajo working group continues to look for new ways to make it easier for Navajo families to build or buy a home through private mortgage financing. The group offers the following insights to initiatives on other reservations:

- **Obtain support from tribal leadership** Support from tribal leadership is key to the success of the initiative. It is important to include senior officials from the tribal government as part of the working group.
- **Educate about new way of thinking** Private financing requires a new way of thinking for Indian communities. Do not underestimate the amount of outreach and information sharing necessary to educate tribal officials and potential homebuyers about mortgage lending.
- **Keep lenders in the loop** Keep lenders informed about new developments on the reservation. By sharing progress with them, their interest in entering the market will grow.
- **Organize broad-based working group** Organize a broad-based working group including representatives from the private sector and tribal and Federal Government. Each of these perspectives is necessary for this type of cooperative effort.
- **Stay neutral** In order to avoid the trap of long-standing disputes, find a neutral facilitator and setting for meetings.
- **Build momentum** Look for ways to keep the momentum of the initiative going. Schedule monthly meetings regardless of progress. New players will appear on the scene with a fresh idea.
- **Stress partnerships** One organization alone cannot achieve success. By working together, partners can leverage each others strengths and resources.
- **Use nonprofits** Look for support from local and national nonprofits who serve as intermediaries between lenders and the community for mortgage lending. If local intermediaries don't exist, create a new one.
- **Dedicate staff** Because most organizations that make up the local working group are already stretched thin with their existing responsibilities, try to identify full-time staff within the tribal government or detail staff to oversee the implementation of the mortgage initiative. Consider hiring a consultant or legal counsel if funds are available.
- **Standardize documents** In order to institutionalize improvements to the mortgage process, standardize documents—such as leases, mortgages, notes—so that others can benefit from your efforts in the future.
- **Promote homebuyer education at all levels** Indian families may be intimidated by a mortgage. They need to learn that it is a lifetime commitment with many benefits. Look for ways to promote homebuyer education in schools so that

children can learn early. Also, stress that homeownership can help to end dependency on tribal and Federal Governments.



## APPENDIX D



### **Summary of Pine Ridge One-Stop Mortgage Center Pilot Site**

#### ***Shared Visions: Pine Ridge***

#### **A Year Later SHARING THE DREAM**

##### **Introduction**

It began with a dream.

An idea.

The Oglala Sioux Lakota Tribe and the Oglala Sioux Lakota Housing Authority needed housing for their people. The Pine Ridge Reservation in South Dakota had experienced a severe shortage of decent, safe, sanitary and affordable housing for many years. The Tribe and Housing Authority knew that Federal funds were limited and would only satisfy a small portion of their needs.

In August 1998, Tribal leaders invited HUD Secretary Andrew Cuomo to visit Pine Ridge and see first-hand the critical needs of tribal members. They shared with him their goals for building homes and strengthening their tribal communities. The Tribe shared their dreams with the Secretary and asked for his ideas. This was the beginning of the *Shared Visions* initiative.

The partnership between the Oglala Sioux Lakota Tribe, Housing Authority and HUD continued to grow and strengthen. It culminated with a visit to the reservation on July 7, 1999, by President Clinton, Congressional representatives, Tribal leaders from across the Nation and nonprofit and private partners. Everyone gathered for the *Shared Visions Summit*, to discuss the vision that could become a reality, not only on the Pine Ridge Reservation, but throughout Indian country.

This report provides a narrative on what the partners have accomplished in the year since the *Shared Visions Summit*, and what the future holds. It provides specific information on the successes of this initiative, including:

⇒ Increased mortgage lending on the Pine Ridge Reservation

- ⇒ Creation of a nonprofit entity that provides a variety of homeownership services
- ⇒ Construction of infrastructure
- ⇒ Rehabilitation and construction of homes
- ⇒ Development of new partnerships among Federal agencies, nonprofit foundations and the private sector for services to improve housing, lending and community health and wellness
- ⇒ Economic development opportunities
- ⇒ Educational opportunities
- ⇒ Corporate commitments at Pine Ridge and throughout Indian country

While each home that was built and each mortgage loan that was closed at Pine Ridge is a very significant accomplishment, the true legacy of *Shared Visions* is the foundation established for the Oglala Sioux Lakota people. This foundation is significant because it is one that can be replicated at other reservations.

The legacy of *Shared Visions* is in the name itself. *Shared Visions* has been an initiative that brought together people, their skills, ideas and the fruits of their labor. The union of their efforts...the *Shared Visions*...will serve to improve the lives of Native Americans and Alaska Natives throughout this country.

*Tatanka Woihanble Otipi, "Buffalo Dreams—Gathering Homes"*

**Shared Visions**—An initiative establishing new pilot projects in partnership with the Oglala Sioux Lakota people designed to bring the dream of homeownership, economic development and youth wellness to the Pine Ridge Reservation.

Shannon County, in which the reservation sits, is consistently ranked as the poorest county in the Nation. The unemployment rate exceeds 70 percent. Few commercial businesses operate on the reservation, which is second only to the Navajo Nation in size. That is why U.S. Department of Housing and Urban Development Secretary Andrew Cuomo recognized the importance of initiating the Shared Visions model at Pine Ridge. As Secretary Cuomo said, "if we can make our innovative programs work here, where some of the most difficult conditions exist, we should be able to make it work virtually anywhere."

When President Clinton visited the Pine Ridge Reservation in July 1999, he told the Oglala Sioux Lakota people, "Give us your vision, we will work to attain it." With those remarks, the President and his administration embarked on a remarkable quest to make good on our Nation's commitment to its native people. The work being conducted by hundreds on the reservation—local tribal members, the tribal government, social service delivery agencies, Federal Government employees, and private and nonprofit organizations—has brought about positive, measurable

progress, and creates hope and promise for significantly improving the living conditions for thousands of Native Americans living on reservation lands.

To bring focus to President Clinton's commitment, the United States Department of Housing and Urban Development, the Oglala Sioux Lakota Housing Authority and the Oglala Sioux Tribe Partnership for Housing have entered into a Memorandum of Understanding (MOU). The MOU is "intended to recognize a close working relationship among the partners in the development of a strategy to provide homes and improved living conditions on the Pine Ridge Reservation." Incorporated into the MOU is "A Strategic Plan for Implementation of the Pine Ridge Shared Visions Housing Initiative." (Attachment 1)[ A copy of the MOU and the Strategic Plan are attached.

The Shared Visions Initiative has three key components:

- Homeownership on the Pine Ridge Reservation
- Economic Development
- Health and wellness for youth (and adults)

## **HOMEOWNERSHIP**

Prior to Shared Visions, the Oglala Sioux Lakota Tribe suffered a severe shortage of decent and safe homes for its members. Additionally, the volume of mortgage lending was below that of neighboring counties with no Indian reservations but are comparable in population. A number of factors contributed to this discrepancy:

- ❖ Lack of infrastructure and affordable home models
- ❖ Lack of education among tribal members regarding credit, mortgage lending, home maintenance
- ❖ Insufficient assets for loan downpayment
- ❖ Complex procedures for leasing tribal lands and leasehold mortgages

Between Secretary Cuomo's first meeting and President Clinton's visit, actions were taken to create a successful program, including:

- ⇒ Completing environmental reviews on potential homesites
- ⇒ Conducting two homebuyer fairs to market the program to interested tribal members
- ⇒ Conducting pre-purchase homebuyer counseling
- ⇒ Constructing roads, water and sewer facilities
- ⇒ Potential homebuyers beginning the land leasing process with the Tribe and Bureau of Indian Affairs

In the year since President Clinton visited the reservation and Secretary Cuomo announced the Shared Visions initiative, 299 units have been developed/rehabilitated, 17 mortgage loans have been closed and 260 families/individuals are potential homeowners.

### **The Oglala Sioux Tribe Partnership For Housing:**

In 1998, Secretary Cuomo, on behalf of the Federal Government, launched the multi-agency effort called "Shared Visions." The Oglala Sioux Tribe received a \$2 million Rural Housing and Economic Development grant to create a nonprofit organization to assist tribal members in achieving homeownership.

In January 1999, the Oglala Sioux Tribe Partnership For Housing (OSTPH) ~~was~~ *Woihanble Otipi, "Buffalo Dreams—Gathering Homes"*, was born. The OSTPH is a 501(c)(3) tax exempt organization.

The goal of the OSTPH is to increase homeownership opportunities on the Pine Ridge Reservation. To achieve that goal, the OSTPH functions include:

- Pre-and post-homeownership counseling
- Serving as the conduit between lenders and tribal members
- Developing affordable housing that serves the needs of tribal members
- Developing funding that assists homebuyers with down payments and monthly payments
- Serving as a housing resource for tribal members interested in homeownership

### One-Stop Mortgage Center:

In August 1998, President Clinton chaired an economic summit to address the need for economic development in Indian country. The President directed the Secretaries of HUD and the Treasury to increase mortgage lending in Indian country. The One-Stop Mortgage Initiative was born; a partnership among tribal groups, Federal agencies, the private sector and nonprofits, working together to identify the barriers to mortgage lending in Indian country and finding the solutions to those barriers.

The President directed that One-Stop Mortgage Centers be created on Indian reservations to provide a variety of services to tribal members that would facilitate homeownership opportunities. The Navajo Partnership for Housing was designated as the first Center and the OSTPH as the second. The goal of the One-Stop partners is to duplicate these Centers and the services provided at other reservations throughout the country.

Homeownership Counseling The OSTPH was awarded a \$101,000 Federal Housing Administration (FHA) Counseling grant to establish an FHA approved Housing Counseling Agency. The counseling program now includes a homebuyer counselor trained in counseling, the development of individual planning, continuing education and the marketing process. The homeownership counseling program includes:

- Money management
- Budgeting for mortgage payments
- Home selection
- Available community services
- The mortgage loan process
- Financing options
- Accumulation of assets
- Credit counseling
- Avoiding problems after closing, including default and foreclosure
- Care and maintenance of the home

To attract tribal members to the homeownership opportunities available through the OSTPH and its counseling program, the OSTPH has developed a marketing program. The program includes advertising on KILI radio (located on the Pine Ridge Reservation), newspaper advertising, orientation sessions, homebuyer fairs and open houses.

As of June 7, 2000, the OSTPH has had contact with 683 individuals and families. This figure includes:

- 642 from the 9 Pine Ridge Districts
- 194 now in credit counseling
- 82 pre-qualified for the HUD Section 184 program by Norwest/Wells Fargo Home Mortgage
- 57 interested in the Self-Help program
- 13 interested in the VA program
- 6 interested in Rural Development programs.

The 82 individuals/families that have been pre-qualified for HUD's Section 184 Loan Guarantees for Indian Housing program are working with the Bureau of Indian Affairs (BIA) to secure a residential mortgage lease and the subsequent Title Status Report.

The Section 184 Loan Guarantee Program provides a HUD guarantee to lenders for mortgage loans made to Native American and Alaska Native individuals and families, Indian tribes and Indian Housing Authorities [including tribally designated housing entities (TDHEs)]. The loan may be used to purchase or rehabilitate an existing home

or to construct a new home. The home must be on tribal trust or individual or allotted trust land, or within an Indian area.

Prior to the creation of Shared Visions, only one Section 184 new-construction loan was originated at Pine Ridge. That loan was on individual trust land. The 16 loans closed under Shared Visions and the OSTPH are on tribal trust land; an additional loan on individual trust land has also closed.

The Oglala Lakota Tribe partnered with the OSTPH to utilize a \$75,000 Resident Opportunity and Self-Sufficiency (ROSS) grant to continue the OSTPH's counseling program.

Homeownership Sixteen (16) of twenty-one (21) homes built at Pine Ridge have been sold and the loans closed through Wells Fargo Home Mortgage (formerly Norwest Mortgage). The 16 homes include 12 manufactured homes and 4 modular (stick-built) homes. The 5 homes remaining include 3 modular, 1 manufactured and 1 steel frame home.

The total development costs for these homes was more than \$100,000 per home, including more than \$17,000 per home for infrastructure. These costs are consistent with those experienced by the Oglala Sioux Lakota Housing Authority. Construction gap financing and reduced interest rates made the homes affordable.

The construction gap financing came from several sources:

- Federal Home Loan Bank of Des Moines Affordable Housing Program awarded the OSTPH a \$499,000 grant. The funds provided a construction subsidy for OSTPH units. Purchasers gave a \$10,000 soft-second mortgage, forgiven after 5 years, for the construction subsidy. (Roger Campbell, Executive Director of the OSTPH, received the Federal Home Loan Bank System's "2000 Community Partnership Award" for the Partnership's work at Pine Ridge.)
- The Oglala Sioux Lakota Housing Authority (OSLHA) provided \$8,000 for downpayment assistance for borrowers.
- The OSTPH provided \$92,000 for downpayment assistance.

The 16 loans were financed under the HUD Section 184 Loan Guarantee program with a 5.95 percent interest rate through the South Dakota Housing Development Authority's Mortgage Revenue Bond Program and backed by Freddie Mae. The average mortgage amount was \$63,400.

The OSLHA managed the site preparation and infrastructure development for the manufactured homes. The manufactured home dealers, Isman Corporation (Champion Homes) and Foothill Homes (Marsh Field Homes), met with the homebuyers who made their final determination on options related to floor plans, house color and finishes.

The OSLHA managed the construction of the modular homes, including the selection of labor contractors, mechanical and electrical contractors, and materials procurement policies, at the Kyle modular home facility on the Pine Ridge Reservation. The OSTPH held a contractor's pre-bid meeting to describe the construction plan. The OSTPH issued a Request for Proposals for subcontractors for the modular units and the construction of the foundations. The OSTPH entered into contracts with local contractors for the construction of foundations.

The Partnership for Advancing Technologies in Housing (PATH), launched by President Clinton in May, 1998, is an initiative designed to dramatically reduce carbon emissions from houses. Under PATH, the Federal Government is working with the private sector and State and local governments to reduce greenhouse gas emissions. These energy efficient technologies, including better insulation and building materials, also benefit the homeowner. The OSTPH homes incorporate the PATH components to maximize efficiency and minimize future utility costs to the homeowners.

In conjunction with the Northern Plains Office of Native American Programs, in Denver, CO, environmental reviews were performed on 110 homesites throughout the Pine Ridge Reservation.

The legislation creating the Section 184 Loan Guarantee program and the President's One-Stop Mortgage Initiative cited the unique legal status of trust lands as a barrier to mortgage financing in Indian country. To assist its homebuyers through the process of leasing tribal lands, the OSTPH has an employee dedicated to working with the tribe and the Bureau of Indian Affairs (BIA) on securing the necessary homesite leases.

Self-Help On Friday, July 14, 2000, nine (9) families held a ceremonial blessing to mark the start of construction of their new homes through the new Self-Help Program. Through the summer and fall, these families will work cooperatively to build their new homes through the new Self-Help Program, a project developed by HUD over the past year. The Self-Help program is building on a model used successfully in other parts of the country and will serve as a model that can be replicated by other tribes.

Through Self-Help, families design, build and pay for their own homes. The OSTPH has worked with the families to develop model floor plans. The families work together in groups to build the homes, supervised by knowledgeable, experienced construction

trainers who guide them through the construction process. Participating families build together in the construction yard in Kyle, the geographic center of the reservation. This central site location enhances supervision, quality control, coordination, and efficiency. The “sweat equity” contribution significantly reduces the construction cost which results in additional savings once the home is built.

Program operating costs are funded by a \$295,000 USDA/Rural Development 523 grant. The Self-Help Program matches existing private lender, HUD, and USDA mortgage financing resources to the individual needs of participating families. The Self-Help Program has accessed three (3) sources of mortgage financing: HUD’s Section 184 loan guarantee program, the Rural Development 502 Direct Loan program, and NAHASDA funds allocated by the Oglala Sioux (Lakota) Housing for the Self-Help Program.

A Self-Help Advisory Committee of OSTPH board members has been created to oversee family selection and program parameters. Family qualifications include the need for a safe, decent, and affordable new home; the willingness to assist in the construction of the new homes; and the ability to meet the mortgage payments after closing.

Department of Defense HomeThe OSTPH, in conjunction with the Walking Shield American Indian Society and the U. S. Department of Defense (DOD), is in the process of constructing 11 new homes on the Pine Ridge Reservation. Walking Shield arranged for the U. S. Army Reserves, led by the 98<sup>th</sup> Engineer Battalion from Texas, and the U. S. Navy Third Naval Construction Brigade (the Seabees) to build the homes. The Army is building 8 homes and the Seabees 3 homes.

The OSTPH (through a construction loan with Fannie Mae and the Enterprise Foundation) has provided the foundations, site development and the materials for the homes. The Army Reserves and Seabees are providing the labor and construction expertise for the homes. The DOD estimates the value of donated military personnel to be \$1,934,000.

The OSTPH will provide the specific interior and exterior work necessary to prepare the homes for sale. Once completed, the 11 homes will be sold to tribal members through the OSTPH. It is expected that the purchasers will finance the homes through Wells Fargo Home Mortgage and the HUD Section 184 program.

Additionally, Walking Shield has arranged for the U. S. Army Reserves to provide medical and dental assistance, road repair and drilling services to the people of the Pine Ridge Reservation. The 80<sup>th</sup> Medical Brigade from Massachusetts sent 36 doctors and nurses to serve at Pine Ridge as their summer tour of duty. The medical personnel



are working at the Pine Ridge Hospital. The Reserve engineers from Texas will grade and repair 40 miles of road on the reservation and drill 3 new water wells.

**Oglala Sioux Lakota Housing Authority:**

The OSLHA is an active participant in the Shared Visions Strategic Plan. The CEO of the OSLHA, Mr. Paul Iron Cloud, is the Chairman of the OSTPH Board of Directors. Mr. Iron Cloud was instrumental in establishing and participating in all of the initial meetings and planning sessions for this initiative and *Shared Visions Summit*.

The OSLHA has provided strong support for Shared Visions and the OSTPH. This support has included:

- Providing staff assistance and support for the homebuyer fairs sponsored by the OSTPH
- Providing the homesites for the OSTPH homes
- Obtaining a \$550,000 Rural Utilities Grant from the U. S. Department of Agriculture was awarded for water and sewer infrastructure. The Indian Health Service performed the design and installation of the water and sewer systems. The U. S. Navy Seabees donated the labor to construct and pave roads.
- Providing the necessary support and liaison with Walking Shield and the DOD for the 11 homes now under construction at Pine Ridge.

Established in 1961, the OSLHA was the first Indian Housing Authority in the Nation. Under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), the OSLHA is the TDHE for the Oglala Sioux Tribe for the Indian Housing Block Grant Program. The OSLHA manages approximately 1,200 low income housing units and 500 homeownership units on the Pine Ridge Reservation. As the TDHE, the OSLHA identified a need for 4,000 additional units in its most recent Indian Housing Plan and has a waiting list of more than 1,200 families.

As detailed in the attached “Pine Ridge Shared Visions Housing Initiative Assessment of Progress” (Attachment 2) and “Share Visions Housing Initiative Estimated Potential Targets” (Attachment 3) the OSLHA:

- Rehabilitated 225 units in 1999
- Built 13 NAHASDA-funded units with IHBG funds
- Relocated 15 DOD units
- Purchased 15 Governor’s Homes for elders
- Is currently developing two 12-unit projects with funding under the IHBG program and the USDA 515 program
- Has rehabilitated 49 of the 57 units targeted for 2000

## **ECONOMIC DEVELOPMENT**

### Empowerment Zone

On January 13, 1999, Vice President Gore named 20 economically distressed communities as new Empowerment Zones, including the Oglala Sioux Reservation at Pine Ridge, SD. The Empowerment Zone designation makes the community eligible to share in Federal grants and tax-exempt bonding authority to finance revitalization and job creation programs.

In his announcement, the Vice President said “Empowerment Zones create a successful partnership between all levels of government, private businesses, community groups and local residents to bring new life to inner cities and rural communities suffering from hard economic times. These Zones do exactly what their name says, they empower people willing to work hard to improve their communities, improve their lives, and build better futures for their children. They help connect the communities that need it most to new opportunity.”

As an initial step in the process to take advantage of the Empowerment Zone (EZ) designation, the Oglala Sioux Tribe has created an EZ Board. This Board is now in discussion with a major corporation to develop a straw particleboard manufacturing plant at Pine Ridge. As proposed, the plant will employ 70 full time employees. J. P. Morgan & Co. Municipal Finance has reviewed the proposal and shown an interest in the financing of the proposed project. HUD and USDA continue to facilitate discussions between these groups.

### President Clinton’s New Markets Tour

On July 7, 1999, President Clinton visited the Pine Ridge Reservation and addressed the need for economic development not only at Pine Ridge, but throughout Indian Country. The economic commitments flowing from this historic visit include:

- Corporate Investments at Pine Ridge
- Federal Investments at Pine Ridge
- The National Partnership for Native American Homeownership
- The National Partnership for Native American Jobs

### Corporate/Private Investments at Pine Ridge

- Microsoft Corporation donated over \$306,000 in computer software to Oglala Lakota College to provide technology training and education to Oglala Lakota tribal members. That software was delivered in October of 1999.

- Gateway Computers donated computers valued at \$50,000 to the Oglala Lakota College for the development of a data processing and programming course for students. The computers were delivered in January of this year and in the future, the course will also be offered to other Tribal Colleges in South Dakota.
- Mortgage Guaranty Insurance Corporation (MGIC) formed a 3-year alliance with the Oglala Sioux Tribe to promote homeownership on the Pine Ridge reservation. As part of that commitment MGIC agreed to endow a full-time Director of Homeownership Counseling position at Pine Ridge, develop a Homeownership Education Program to be offered at Oglala Lakota College, and to develop new and innovative lending mechanisms tailored to the specific needs of Native Americans. MGIC has also prepared counseling materials to be used at Pine Ridge for potential homebuyers.
- Global Modular Home Builders opened a modular manufacturing plant near Pine Ridge that produces three affordable steel frame homes in a Native American Series of designs. These homes will be offered to tribal members living on the reservation and in the nearby area. One of the steel frame homes is now an on-site model at Pine Ridge.
- The Federal Home Loan Bank of Des Moines awarded \$499,000 to the OSTPH to build 45 new single-family homes in Pine Ridge.
- Republic Mortgage Insurance Company pledged \$100,000 over 5 years to launch the “Financial Independence” pilot project to give over 2,000 students per year the knowledge and tools they need to achieve financial independence. Republic will design the courses, train the instructors, and supply all of the textbooks and materials needed for the courses.

#### Federal Investments at Pine Ridge

- The U. S. Department of Agriculture designated an Empowerment Zone at Pine Ridge and awarded grants for projects under the Water 2000 initiative. This includes two separate developments of water and sewer facilities on Pine Ridge. The first project consists of a loan of \$71,250 and a grant of \$213,750 to the Lakota Fund that paid for utility hookups for a 30 unit housing subdivision (HUD awarded \$538,266 to complete these homes). The second project is a loan of \$148,750 and a grant of \$446,250 to the Oglala Sioux Tribe that connected 43 homes and home sites to necessary water utilities.
- HUD and the Oglala Sioux Tribe are working together to expand homeownership opportunities for Tribal members. This partnership—initially funded by a \$2 million grant from HUD—created the OSTPH. To help ensure the success of this venture, HUD funded 2 years of technical assistance by WaterhouseCoopers to the OSTPH. The assistance included developing appropriate loan products, providing counseling, conducting homebuyer fairs, and providing outreach to traditional capital markets.

- HUD, the OSTPH, the Department of Agriculture, the DOD, the BIA and the Indian Health Service worked together in a comprehensive government-to-government partnership with the Oglala Sioux Tribe to complete the needed infrastructure—including basic water and sewer services as well as roads—for the OSTPH homes.
- The National Park Service is requesting \$12 million to construct the Lakota Sioux Heritage Culture Center Complex to replace the current White River Visitor Center on the Southern Unit of Badlands National Park. The new Center will attract tourism and display the culture and heritage of the Tribe. The new Center will serve as a link between Mount Rushmore and Wind Cave National Park and will bring revenue directly to Pine Ridge by contracting its concession services with the Oglala Sioux Tribe.

#### National Partnership for Native American Homeownership

- Banc One Capital Markets and George Baum & Company, two of the Nation's largest municipal securities underwriters, committed to underwrite \$300 million in bonds per year for the next 5 years to create a national market for Indian Country mortgages. This program is currently being marketed in Arizona, Alaska, New Mexico, Oregon and Washington.
- The Mortgage Bankers Association of America (MBA) and HUD will team with private mortgage lenders to more than double the number of government insured or guaranteed home mortgages in Indian Country for each of the next 3 years. As part of this initiative, mortgage lending company partners will increase loan origination production by 1,000 mortgage loans in Indian Country over 3 years. Since the Shared Visions Summit at Pine Ridge, the HUD Section 184 Program alone has guaranteed more than 200 loans.
- PMI Mortgage Insurance Company increased its Native American mortgage insurance initiative to \$55 million (from \$20 million) nationwide. PMI initially established a \$10 million program insuring home mortgages for the Choctaw Nation, Chickasaw Nation, Citizen Potawatomi and Cherokee Nation in Oklahoma and they added another \$20 million for the states of Arizona, Arkansas, California, New Mexico, Oregon, Texas and Washington.
- GE Capital committed to the design of a pilot program with its mortgage lending partners to insure \$2 million in mortgage loans in Indian Country. As an initial step, GE Capital worked with the National American Indian Housing Council to develop and sponsor an underwriting seminar in Wisconsin in September of 1999 between tribes and lenders to inform and help the conventional market meet the needs of Native Americans.
- Owen's Corning Corporation agreed to work with the Nation's tribal colleges to bring the Certified Energy Professionals program to Indian Country. This program offers Native Americans the chance to become certified experts in energy efficiency in homes and the latest construction technologies. Owen's Corning will train

instructors from every tribal college not only on housing technology and energy efficiency but on the best methods for teaching their students in these areas.

- Ginnie Mae has brought its successful Targeted Lending Initiative to Indian Country. Previously, this program, which dramatically reduces the costs of mortgages, was available only for Empowerment Zones and Enterprise Communities. Targeted Lending cuts the fees mortgage lenders pay to place their loans in Ginnie Mae securities by up to 50 percent. The program provides a strong incentive for mortgage lenders to do business in Indian Country and for the first time will give Native Americans access to mainstream mortgage capital markets.
- HUD and the U.S. Department of the Treasury co-chaired a committee consisting of Federal, private and tribal participants to identify the barriers to mortgage lending in Indian Country. Participants were charged with identifying and implementing solutions to those barriers. The purpose of President Clinton's One-Stop Mortgage Center Initiative is to streamline lending in Indian Country, thereby increasing homeownership opportunities. The Pine Ridge Indian Reservation is the second site selected for the One-Stop Initiative.

### National Partnership for Native American Jobs

- Champion Enterprises partnered with the Gila River Indian Tribe to open a new \$6 million manufactured housing facility on the Gila River Reservation in Arizona. Champion and the Tribe have worked together on the construction of the plant which will use tribally-owned utility companies for phone and electrical service. The Tribe will gain ownership of the facility and regain the land once Champion's lease expires. The plant will employ 300 new workers. Champion is actively recruiting members of the Gila River Tribe to fill those jobs.
- The North American Steel Framing Alliance Steel Framing Alliance has developed a training package for its members, including an internet home page, to facilitate business relationships among other private companies in the construction industry (including manufacturers, tool companies, fastener companies, home builders, panelizers and others) and Native American economic development organizations. Members of the Alliance have also met with several tribes to discuss potential projects.
- The Department of Treasury's Community Development Financial Institutions Fund has conducted an extensive, nationwide study on lending and investment practices on Indian reservations and other lands held in trust by the United States. The study was undertaken to: (1) identify barriers to private financing in Indian Country; (2) quantify the impact of such barriers on access to capital and credit in Indian Country; and (3) develop a strategy and action plan for eliminating barriers and increasing lending and investing in Indian Country. The CDFI fund is now sending out the results of thirteen workshops held across the country as part of this study and a final report will be published before the end of the year.
- At the request of the Federal Communications Commission, the United States Telecommunications Training Institute, a nonprofit joint venture between leading U.S. communication corporations and the Federal Government, is, on an individual voluntary corporate basis, providing training support to enable Native Americans to gain the expertise necessary to enter the dynamic U.S. telecommunications marketplace. In addition, the FCC in cooperation with the National Exchange Carrier Association, Inc. (NECA) has developed a comprehensive telecommunication conference (ITTI 2000) to help tribal leadership increase telecommunications services for Indian Country.

### **HEALTH AND WELLNESS FOR YOUTH (AND ADULTS):**

As part of President Clinton's commitment to the Oglala Lakota Sioux people at Pine Ridge, HUD, through its Office of Native American Programs, has partnered with the Department of Agriculture, and the Department of Interior, BIA, in an ambitious effort to bring wellness and opportunity programs to the youth on the Pine Ridge Reservation. The multi-agency coalition is supporting the extraordinary work spearheaded by the Boys and Girls Club of America in developing, building, and

operating a state-of-the-art Boys and Girls Club facility and accompanying programs at Pine Ridge. Dozens of local, not-for-profit, and Federal programs are being interwoven to create a robust and comprehensive program designed to address the many needs of Pine Ridge youths.

The Federal agencies have worked together to bring a piece of this Shared Vision to youth at Pine Ridge. This multi-agency effort has identified target locations, site development possibilities, as well as strategies for outreach and education throughout the reservation's districts. This joint effort has helped to identify resources, program opportunities, and comprehensive service strategies.

#### The Inspiration SuAnne Big Crow

The inspiration of the SuAnne Big Crow Boys and Girls Club comes from the memory of an energetic, good-hearted, and extraordinarily gifted young woman named SuAnne Big Crow. The star of her high school basketball team, SuAnne led the Pine Ridge High School team to the State championship and inspired her people with great excitement and joy. She was a leader for her peers as well as a leader for her people. She was an outstanding spokesperson against alcohol use and abuse. Appreciating the gifts that she had been endowed with, her dream was to go to college and to return to Pine Ridge so that she could establish a program to help other youths to find the strength, confidence, and inspiration to succeed. Her program would be a place that could be a "Happy Town" for kids—a safe place of children.

Sadly, SuAnne was in a tragic automobile accident, leaving her family and the people at Pine Ridge with tremendous sorrow. Determined to not let the loss of her daughter be a greater tragedy for others, SuAnne's mother, Chick Big Crow, virtually single-handedly established, and has successfully operated, a Boys and Girls Club at Pine Ridge. Because of the success of the SuAnne Big Crow Boys and Girls Club, the Boys and Girls Clubs of America has committed resources to build upon Ms. Big Crow's efforts and will design and build a 30,000 square foot state-of-the-art facility at Pine Ridge. Together, Chick Big Crow, the Boys and Girls Clubs of America, the Pine Ridge Youth Coalition, and a multitude of local, not-for-profit, and Federal agencies have joined together to fulfill SuAnne's dream to provide the young people of Pine Ridge a happy and safe place to call their own.

Agency Contributions Federal agencies have significantly invested in the project to facilitate the collaboration among the numerous resource sponsors, the Boys and Girls Clubs of America, SuAnne Big Crow Boys and Girls Club, the Pine Ridge Youth Coalition, and the many local program providers. Program staff from the Department of Agriculture, BIA, and HUD, including two Community Builders, have been actively involved in virtually every aspect of the project.

Youth Programs Development Partnerships have been formed that will link social services, educational enhancement opportunities, youth crime prevention, organized recreation, health services, and comprehensive community outreach. Through the Youth Coalition, agencies will share space, provide educational services, and provide program opportunities for the youth and their family. Head Start will use the facility to serve children and infants to age five. The Indian Health Services will use the facility for diabetes and heart disease prevention classes as well as rehabilitation services. The IHS will also provide professional mental health and wellness counselors. Through the tribe's Department of Labor Youth Opportunity grant, job counseling and training will be offered. There will also be a focus on Youth Build which will give much needed skills to youth. There will be crime and domestic abuse prevention offered through educational classes for all ages. Boys and Girls Clubs will provide weekly programming that is age-specific and follows a plan of youth character development strategies.

Project Development Program staff from the agencies have worked to ensure project development success and results. HUD's Community Builders have conducted strategic planning sessions on program needs and building design in Pine Ridge. During these sessions, members of the Pine Ridge Youth Coalition and the Pine Ridge Youth Council discussed and planned for the needs associated with age-appropriate and program-specific space needs, as well as meeting the needs for community interaction. An architect from the Boys and Girls Clubs of America participated by asking questions, making design suggestions, and providing design guidance to meet the group's needs. The Community Builders will continue to coordinate with the architect of the Boys and Girls Clubs of America to ensure that local design and program needs are met, as well as to plan and coordinate for future usage by various partner organizations.

Local Department of Agriculture staff have been working with ~~Shirley~~ Anne Big Crow Boys and Girls Club board to develop, plan, and implement outreach extension sites in coordination with Pine Ridge Empowerment Zone Board.

### Funding Resources

To date, the following financial resources have been committed by the various parties funding the design, development, and construction of the facility:

HUD Neighborhood Investment Program	\$1,500,000
USDA Community Facilities Program	\$1,500,000
USDA Rural Business Enterprise Program	\$ 500,000
BIA Facilities Construction Program	\$ 750,000
Boys and Girls Clubs of America	<u>\$ 335,000</u>
Total	\$4,235,000



Facility Description The facility will be a 30,000 square foot building on a 40 acre lot. Features include:

- Multipurpose Gymnasium
- Olympic-size Swimming Pool
- Exercise/fitness Center
- Cultural Arts Center
- Native American Library
- Learning Center
- Conference Rooms
- Counseling Rooms
- Office Space
- Gift Shop

Additional ideas for further expanding on the facility's features include planning and assessment for outdoor, multi-sport ball field, raw Wow grounds, and a golf driving range.

A ground-blessing ceremony is scheduled for August 2000.

Overview of Programs The Youth Wellness and Opportunity Center will partner with the Indian Health Service to provide health education for youth as well as intervention activities for community members. The facility's Olympic-size swimming pool will be used to help treat diabetes and heart patients. Senior citizens will have access to indoor walking facilities through use of the gym. Health education professionals will teach SMART MOVES (a drug and teen pregnancy prevention program), human development education, cancer prevention, and programs for general health and well-being. Mental Health counselors will also provide a vast array of counseling services that will include individual, family, and group therapy and education on-site. The Indian Health Service will coordinate activities at the main center as well as at the outreach sites. They will also provide a cadre of professional volunteers that will donate many hours at the center.

Head Start will partner with the Boys and Girls Club to provide services for children up to age five. These youths will have the opportunity to access the learning center, the swimming pool, the arts center, and the gymnasium. Parenting classes and family activities will also be offered to the community.

Crime prevention, domestic abuse prevention, and drug abuse prevention programs will coordinated with several agencies. Project Circle will also work closely with the Boys and Girls Clubs to coordinate youth diversion programs and juvenile crime prevention.

There will be a large focus on youth job preparedness. The tribe has made a commitment to see that youth are thoroughly trained to achieve success in the workplace. Programs will include the Boys and Girls Club's JOB Search program, as well as components of its Education and Career Development Core program. Through the recently awarded Youth Opportunities Grant, teens will be able to participate in the exciting Youth Build Program, a nationally recognized program that trains youth on specific job skills that will lead them to future career opportunities.

Specific Youth Programs Curriculum There are five core areas that Boys and Girls Clubs provide as an overall framework for programming. **ShAnne** Big Crow Boys and Girls Club will provide a diverse program that will attract and retain boys and girls with a wide variety of interest and needs. Each day age appropriate programs will be offered in which youth can choose to participate.

- Character and Leadership Development Core Program Empowers youth to support and influence their Club community, sustain meaningful relationships with others, develop a positive self-image, participate in the democratic process and respect their own and others' cultural identities.

Examples: TEEN Supreme, Keystone Club, Youth of the Year, Role Model Program, Community Services Project, Tribal Youth Council.

- Education and Career Development Core Program Enables youth to become proficient in basic educational disciplines, apply learning to everyday situations and embrace technology to achieve success in a career.

Examples: POWER Hour Homework Help, HappyTown Jobs for youth, Reading Program, Cultural Education, Computer Lab, Ponytails and Ducktails.

- Health and Life Skills Core Program Develops young people's capacity to engage in positive behaviors that nurture their own well-being, set personal goals and live successfully as self-sufficient adults.

Examples: SMART MOVES, Smart Girls, Professional Counseling, Cancer Prevention, Diabetes Education, Teen Pregnancy Prevention, Lady Talk, Talking With TJ, Talking Circle.

- The Arts Core Program Enables youth to develop their creativity and cultural awareness through knowledge and an appreciation of the visual arts, crafts, performing arts, and creative writing.

Examples: Fine Arts Contests, Pow Wow Dancing, Cultural Story telling, Drumming, Bead work, Shawl Design

- Sports, Fitness and Recreation Core Program Develops fitness, positive use of leisure time, skills for stress management, appreciation for the environment and social skills.

Examples: Team sports, swimming, ice skating, sledding, soccer, baseball, volleyball, aerobics, weightlifting, drill teams, relay races, golfing, tournaments, gymnasium activities including billiards, noseball, ping pong, checkers, chess and table games.

Adult Programs The SuAnne Big Crow Boys & Girls Club, under the leadership of Boys & Girls Clubs of America, will develop a cadre of quality programs for adults as well. Adult programming and services will be initiated in the following areas:

- The Educational Enhancement Program In partnership with local educational entities such as The Oglala Lakota College, the Center will offer *Project Learn*, which will offer adults GED programs and remedial learning services.
- Career Development Program Adults will have the opportunity to explore the world of work and career possibilities. In conjunction with existing Welfare-to-Work programs, adults will learn to establish career and educational goals, identify their strengths, recognize their potential for achieving success, and prepare themselves to become job ready.
- Welfare to Work Program Career Development will be greatly strengthened by SuAnne Big Crow Boys & Girls Clubs partnering with the *Wakanyeya Un Wowasi (Work Now for Children)* program, a Welfare-to-Work program organized by the Oglala Lakota College. Their mission includes assisting people, specifically 150 TANF recipients during Phase I, who are currently unemployed or hindered by personal and systematic barriers to attain and maintain self-sufficiency.
- PowerUp! The Center will create a state-of-the-art computer technology Center. Boys & Girls Clubs of America has recently launched major technological partnerships with both AOL and Gateway, securing the capability of establishing a technology center at Pine Ridge. Adults will have the opportunity to learn computer skills. The technology center will address the existing “digital divide” and provide youth and adults with new computer skills and knowledge that will enable them to effectively compete in today’s world of technology.
- Entrepreneurship Program The Center recognizes the urgent need to create new businesses and industries in the Pine Ridge area. Focusing on the strengths and advantages of Pine Ridge, the Center will offer programs and services that will

empower and inspire individuals to explore new economic ventures and employment opportunities. Working jointly with The Oglala Sioux Tribe, the Center will work to advance the objectives of the Tribe's comprehensive economic development plan.

- SMART Moves for AdultsBased on Boys & Girls Clubs' SMART Moves Program for youth, this program will focus on the issues of alcoholism, tobacco and drug use, and sexual activity. In partnership with services offered by the local health and social services, the Center will provide a unified approach to addressing the very health issues that plague the Pine Ridge Reservation.
- Family Support ProgramThe Center will provide a number of programs, services, activities, and events that are designed to promote the well-being and healthy development of adults and youth. The programs will enhance and reinforce positive parenting, family stability, cohesion and connection. Examples include adult/youth activities; family fun nights; classes that offer information and instruction about positive approaches to parenting; referral to and involvement in community services; and participation in support groups. Parents and future parents will be equipped with new parenting tools that help them become better parents. Coordination with the Child Care Center, the Tribal entities, the Boys & Girls Club, and social and family services will greatly enhance the family support programs.
- Drug EliminationThe Center will coordinate activities with the Oglala Sioux Lakota Housing Authority's Drug Elimination Program. These activities will provide youth and adults many educational opportunities and experiences. Participants will learn drug prevention strategies and take part in the Housing Authority's year-round activities.
- Sports Adults will have the opportunity to participate in adult sports programs, organized by the Center. In partnership with existing local recreation programs, the Center will offer a renewed commitment to adult sports programs. Adults will have the opportunity to work closely with the youth sports programs as coaches and as active volunteers.
- Fitness Adults will benefit from the Center's state-of-the-art fitness and aquatic centers. A new focus on adult healthy lifestyles, classes in nutrition and exercise, will help the Pine Ridge Reservation combat its high rates of heart disease, diabetes, and other illnesses.
- Recreation Recreational programs promote and develop fitness, positive use of leisure time, skills for stress management, appreciation for the environment, and social skills. Additionally, the programs offer participants opportunities to involve

themselves in activities that improve the quality of life in their own community. Leading by example, adults will provide their children with healthy active role models.

### **Visions for the Future**

Homeownership Moving Forward The unique legal status of tribal trust land has become a major obstacle to the timely processing of mortgage loan documents for Wells Fargo Home Mortgage and the OSTPH. The OSTPH has more than 60 applications for home site leases in process with the BIA. To resolve the months of delay encountered in this process, the OSTPH has proposed a Memorandum of Agreement (MOA) among the BIA, the BIA Realty Branch, the Oglala Sioux Tribe Land Office and the OSTPH to expedite the process of obtaining a home site lease for families participating in the Shared Visions project. The MOA would detail the responsibilities of each party in processing the required home site lease.

In June 2000, HUD awarded the OSTPH a \$50,000 capacity building grant under the FY 2000 Rural Housing and Economic Development (RH&ED) program. The HUD grants are awarded to nonprofits to enhance the development of housing activities in rural areas. Additionally, \$70,000 in leveraged funds for capacity-building activities was provided by the Enterprise Foundation and the Pine Ridge Agency of the Bureau of Indian Affairs.

With the \$120,000 in capacity building funds, the OSTPH plans include:

- Hiring development and land specialists
- Providing staff training on project financing and financial packaging
- Certification as a mortgage lender
- An independent evaluation of the OSTPH housing counseling and construction activities
- Training on housing development utilizing Low Income Housing Tax Credits

The OSTPH has been awarded a Low Income Housing Tax Credit allocation for the construction of 20 new homes. In addition, with Ginnie Mae providing the needed credit enhancement, the OSTPH is pursuing the South Dakota New First-Time Homebuyer's program. The OSTPH will continue to work with interested families to become eligible for private mortgages and to become homeowners. As families qualify and additional funding is secured, the OSTPH will facilitate the construction of new homes.

As detailed in the "Strategic Plan", new initiatives include:

- The Path to Homeownership Program, a lease-to-purchase plan
- The Governor's Homes Program
- The RDA 515 program in conjunction with the OSLHA
- Expansion of private mortgage lending on the Pine Ridge Reservation

The ultimate goal for the Shared Visions Initiative and the OSTPH is the self-sustainment of development efforts by the end of 2003.

Attached are 2 tables that summarize progress to date and targets for the future. Refer to "Pine Ridge Shared Visions Housing Initiative Assessment of Progress" and "Shared Visions Housing Initiative Estimated Potential Targets.

HUD's proposed budget for FY2001 includes \$5 million to fund the Native American Homeownership Initiative. This fund would help create and provide capacity building for on-reservation entities to provide homeownership services. This would establish additional One-Stop Mortgage Centers throughout Indian country and afford education to tribal members on credit, budgeting, mortgage lending and home maintenance.

#### Economic Development Moving Forward:

As previously reported, a number of the corporate, Federal and national commitments provide long-term investments at Pine Ridge. In addition, subsequent to President Clinton's visit, HUD was given the lead responsibility for the creation of a new interagency economic development initiative called Native eDGE.

Native eDGE (economic Development Guidance and Empowerment) is a White House Interagency initiative to facilitate sustainable economic development within American Indian and Alaska Native communities. Coordinated by HUD's Office of Native American Programs, Native eDGE links over 12 Federal agencies through a single toll-free number and web-site so that tribes, Native Americans, lending institutions, nonprofits, foundations and private businesses can collaborate to promote economic growth in Indian Country.

Participating agencies include the U.S. Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, Transportation, and Treasury, as well as the Environmental Protection Agency and the Small Business Administration.

Native eDGE serves as a one-stop-shop for communication and information-sharing between governments, private businesses, and American Indian and Alaska Native organizations and individuals. It includes a telephone call center, an interactive web

site, a publications clearinghouse and a technical assistance center staffed by economic development specialists.

Health and Wellness for Youth (and Adults) Moving Forward:

The SuAnne Big Crow Boys and Girls Club Youth Wellness and Opportunity Center will continue programs through planned outreach and recruitment strategies. Boys and Girls Club extension units will open sites in districts throughout Pine Ridge. These extension sites will have all of the program components of the Boys and Girls Club as well as provide scheduled activities to travel to the site in Pine Ridge.

There are additional ideas for further expanding the SuAnne Big Crow Boys and Girls Club facility and site. These plans include assessment for outdoor, multi-sport ball fields, a Pow Wow ground, and a golf driving range.

## APPENDIX E

### Introduction to Individual Development Accounts

#### ***Background—What is an IDA?***

Individual Development Accounts (IDAs) take many different forms and processes, but in general they are accounts set up by a borrower to save money. The borrower makes an agreement with the bank or other provider who matches the savings when certain goals are achieved. The matching money encourages savings and reduces the time it takes save.

The accumulation of assets and wealth through homeownership is an essential element for individuals to achieve economic security. Tribal governments recognize that promoting homeownership not only benefits individual tribal members, but it is also an important component of a greater community development strategy. By building equity through homeownership, tribal members are better positioned financially to advance their goals in the areas of business development and education. Through a home equity loan, they may be able to obtain financing to start a business or to send themselves or their family members to college. These advancements, in turn, contribute to the overall economic stability of the community.

However, homeownership, small business development, and education each require an initial investment on the part of the individual and communities. One source of investment comes from individual savings—which is often a challenge for low-income populations to accumulate. Individual Development Accounts are a means to expand the opportunities for saving and investment by low-income individuals. Similar in structure to Individual Retirement Accounts (IRAs), they typically are used for purchasing a first home, paying education or job training expenses, or capitalizing a small business.

In conjunction with an improved mortgage-lending infrastructure in Indian country, such programs have the potential to significantly increase the homeownership rate for Native Americans, who have historically been blocked from realizing the socioeconomic benefits of owning a home.

#### ***How does an IDA program work?***

The IDA program is designed to assist qualifying individuals to accumulate savings and enhance personal finance skills. The program allows individuals to deposit a specific amount of money on a monthly basis into a financial institution and receive



matching funds for their IDA deposit from public or private sources, accelerating the participant's ability to take advantage of these high-return investments.

Individual and matching deposits are not co-mingled; all matching dollars are kept in a separate, parallel account. When the accountholder has accumulated enough savings and matching funds to purchase the asset and has completed the required educational courses, the matched funds are paid directly to the asset provider. All IDAs must be held at a qualified financial institution, which is any financial institution eligible to hold an IRA.

***Who are the participants of an IDA program?***

**Managing Entity**—An IDA program can be developed in several ways. It can be established by a tribal government, or a tribal agency, a TDHE, a tribal nonprofit organization or a tribal financial institution. The responsibilities of the managing entity include, but are not limited to:

- Administering the program;
- Recruiting and selecting participating families;
- Assisting in establishing individual savings plans;
- Monitoring the accounts and provide an annual report to appropriate entities providing matching funds;
- Providing the economic literacy training IDA participants are required to take;
- Designing and implementing homebuyer and other education courses; and
- Recruiting and organizing other entities for administrative and match funding support.

If the managing entity is a non-tribal entity, it is important that the program be designed to meet the tribal communities needs.

**Tribal Governments**—The level of involvement by the tribal government will vary from tribe to tribe. Tribal leaders are an integral link in the establishment of an IDA program. Tribal government participation could include, but would not be limited to:

- Assisting in introducing the program to the tribe as a whole;
- Assisting in assuring the required resources such as meeting space or tribal attorney's are available;
- Enacting needed resolutions; and
- Allocating general tribal funds.

**Native American Homebuyers**—Tribal member participation in the IDA demonstrates a commitment on the part of the homebuyer to achieve the goal of homeownership through individual investment in the form of savings. It is this effort

of self-reliance that is rewarded, with assistance in the form of matching contributions for each dollar saved.

In many tribes, there may be at least two different populations: those who are familiar and comfortable with using banking services and those who are not. When establishing homeownership programs, in general, **IDA**s for Indian country, in particular, the understanding that creating a single program suited to meet the need of every tribal member would be difficult at best, will assist the managing entity in creating a direct, focused and practical program.

Managing entities should spend some time determining which households an IDA program would best serve. In some areas, low-income households may be adequately served by existing programs, for which families with higher incomes, who have a genuine need for housing assistance, are ineligible. In other areas, families of all incomes may be in need of assistance in purchasing a home. An individual's ability to successfully participate in and complete an IDA program depends as much on where they are in their life as their income capacity.

**Financial Institution**—The relationship between an IDA program and a financial institution is a critical element. Strong relationships can be fostered between the lending community and the tribe. IDA programs, which offer the greatest degree of creativity and flexibility for financial institution involvement, have a high probability of success. Financial institutions may elect to participate in any of several different ways:

- Provide matching funds for IDA accounts;
- Contribute funds to support a community organization operating an IDA program;
- Structure IDAs so that no account fees are charged;
- Offer an above-market interest rate on IDA savings accounts;
- Provide account balance and transaction data to the community group on a monthly basis;
- Offer other incentives for IDA depositors, such as no-cost checking, a waiver of minimum balance requirements on checking accounts, free or reduced fees for ATM services, and no-cost children's savings accounts for IDA participants' children;
- Designate a bank employee to be the contact person for the IDA participants;
- Participate on an IDA advisory committee or board;
- Provide economic and/or financial literacy training to IDA participants; and
- Provide first mortgage financing to homebuyers who successfully complete the IDA program.

***What should an IDA program for homeownership include?***

An IDA program for homeownership may include the following features. Many of these may already be part of a one-stop mortgage center's services:

- **Credit counseling**—Once program participants have been identified, it is important that they receive counseling to help clear any outstanding credit issues. For those who have little or no credit history, assistance should be provided in establishing credit, in a manner that will not negatively impact the homebuyer's capacity to afford a mortgage. Also, it may be necessary to encourage lenders to consider alternative methods of identifying and rating credit, as opposed to standard credit scoring models.

As it is anticipated that most program participants will be enrolled for a period of 24 to 48 months, if credit counseling starts early, there should be sufficient time to identify and address many credit-related issues.

- **Pre/post purchase homeownership counseling/training**—It is important for individuals to understand the responsibilities of homeownership as well as the benefits. Programs that teach the risks of taking on additional debt after home purchase are important. It is also worthwhile to provide training to enable participants to perform basic home maintenance to protect the value of their homes.
- **Savings plans**—The savings plan should only contain the funds saved by program participants. The managing entity should work with participants to establish a savings interval, for example weekly, biweekly, or monthly. The managing entity should also establish a maximum period for participants to be enrolled in the program. Generally, participants are enrolled for a period of 24 to 48 months, which can be longer or shorter, based on the established individual saving plan and the amount of matching funds available.
- **Matching funds**—Although they may vary from program to program, matching contributions could consist of funds contributed from both the public and private sectors. Based on program size, realistic expectations for matching fund contributions are in the 3:1 to 6:1 range.

Homebuyer savings, leveraged by Federal, State or local government funds along with private sector dollars, accelerates the level of savings to the benefit of the homebuyer. Also, the infusion of private dollars reduces the burden on public funding sources, which must decide the best way to allocate scarce monetary resources. Generally, the matching contributions are funded to program participants after their savings goal has been achieved.

***What issues should tribal communities consider in developing an IDA program?***

- Recruitment of program participants can be tougher than expected, particularly if working with individuals outside of your usual program. Managing entities should spend time on developing outreach materials and actively recruiting participants.
- Although administration of an IDA program appears to be relatively straight forward, it requires performing a wide variety of monitoring and oversight tasks, as well as working with clients. Many programs have found that at least one dedicated staff person is required.
- Although there are a number of standard policy and procedures guidelines for the design of an IDA program, each needs to be designed according to the community and constituents being served. This requires the need to be flexible in program design and to make periodic programmatic adjustments as necessary. Gathering input and support from the community on the design of the program is a very important planning step.
- A critical component of the IDA program is financial literacy training. Choosing the appropriate curriculum, identifying training staff, and course planning is very important in meeting the needs of the participants—many of whom may have had little experience in money management. Offering additional asset maintenance courses in homebuyer education, business plan development and tax counseling can also be beneficial.
- One of the critical elements in running an IDA program is establishing a relationship with a financial institution. Unfortunately, finding a financial institution willing to partner with a tribal program can be a challenge. Being persistent and utilizing the authority of the tribal government can help establish these relationships. In some cases, moving through the corporate ranks may be necessary. In each instance, financial institutions should be willing to provide the services to IDA participants that are mentioned above.
- Finally, running an effective IDA program requires maintaining communication between and the involvement of all the stakeholders in the program. The establishment of an advisory committee is a useful way of ensuring that the interests and involvement of the participants, tribal government and other community stakeholders are maintained.

***What's happening with IDAs nationwide?***

IDAs have already been incorporated into the Temporary Assistance for Needy Families (TANF) program welfare-to-work funding, the refugee resettlement program,

the Bank Enterprise Awards program at the U.S. Department of Treasury, and through the Federal Home Loan Banks system. Little of these efforts, however, have been specifically directed toward tribal communities.

As of November 1999, 34 states had either authorized IDAs or have IDA legislation pending. Of these, Arizona, Maine, Michigan, North Carolina, Texas, and Wisconsin (states with substantial rural Indian populations ) have programs operating. Minnesota, Oklahoma and Oregon are developing State IDA programs. While tribal participation is limited for the majority of these programs, four tribes are participating in the Minnesota State initiative.

In 1998, a 13-site demonstration project *Down payments on the American Dream* was initiated by the Corporation for Enterprise Development (CFED). Funded by several foundations, this 3-year initiative established pilot demonstration projects in selected communities across the country. This initiative is being formally evaluated by the Center for Social Development at Washington University in St. Louis.

In 1998, First Nations Development Institute established a pilot IDA demonstration project in tribal communities. Five grants were awarded—two were small research and planning grants to the Pascua Yaqui Tribe in Tucson, AZ and the Hoopa Valley Tribe in Hoopa, CA; and three were multiyear implementation grants to the Cherokee Nation in Tahlequah, OK, Oklahomans for Indian Opportunity in Norman, OK and Tohlokai Christian Business Opportunities in Taahay, NM.

In February 2000, Senator Lieberman and others introduced the *Savings for Working Families Act of 2000 (S. 2023)* which proposes nearly \$1 billion in Federal tax credits for financial institutions to match IDAs.

***What are the sources of funding for IDA programs?***

Managing entities of IDA programs must identify sources of funding for both administrative costs and matching funds. The following are possible sources:

- **U.S. Department of Health and Human Services (HHS)**—HHS offers competitive grants for account matching and (limited) administrative funds to nonprofit organizations through the 5-year, \$125 million Assets for Independence (AFI) Demonstration Program. See [www.acf.dhhs.gov/programs/cs](http://www.acf.dhhs.gov/programs/cs) (under “funding opportunities”) for more information.
- **State programs**—Most states have IDA policy or IDA-related activities. They have supported IDAs in one of several ways, including direct appropriation of general funds, State tax credits for contributors to IDA programs, and the allocation of CDBG and TANF funds by states. Some states have, in cooperation with partnering nonprofits, secured Federal funds through the HHS Assets for Independence grant, to either start or expand their statewide IDA programs. See [www.gwbweb.wustl.edu/users/sd](http://www.gwbweb.wustl.edu/users/sd) for further details on State IDA policy, as well as about current theory and research on IDAs.

The State of Indiana, for example, provides funding for a total of \$100,000 per year, managed by the Indiana Department of Commerce. Additional IDAs may also be established by the managing entity with matching funds provided through private donations using tax incentives provided by the State. The State, through legislation, established IDA tax credits to be used against Indiana tax liability. The managing entity makes application and receives a percentage of credits per year. With the tax credits, the managing entity then solicits donations to be used as match for Individual Development Accounts.

- **Affordable Housing Program (AHP) of the Federal Home Loan Banks**—The AHP is designed to encourage members to undertake creative efforts and increase their participation in and support for efforts directed towards increasing the supply of affordable housing in the member FHLBank District. In the “Homeownership Set-Aside Program” of the AHP, each FHLBank may set aside annually up to the greater of \$1.5 million or 15 percent of its required AHP contribution to assist low- and moderate-income households to become homebuyers. Of the 12 FHLBanks throughout the U.S., three—in San Francisco, Seattle and New York—are running set-aside programs somewhat similar to IDAs. Each offers a 3:1 match of household savings. See <http://www.fhfb.gov/ahp.htm>.

For example, the Federal Home Loan Bank of San Francisco is introducing a homeownership set-side program for very low-, low- and moderate-income households. Starting in 2000, the Bank will set aside \$500,000 of its Affordable

Housing Program contribution to provide matching funds to eligible homebuyers for downpayment and closing cost assistance. The program is known as the Individual Development and Empowerment Account (IDEA).

IDEA is a non-competitive program in which AHP funds will be available through participating Bank members to qualified homebuyers who have saved in an Individual Development Account (IDA) program.

All participating households must save for a minimum of 10 months and successfully complete a homeownership-counseling program provided by an experienced organization. The Bank will match up to three dollars for each dollar saved by the prospective homebuyer in their IDA account, up to a maximum of \$10,000 per household.

Only financial institutions that are members of the Bank were eligible to submit applications.

Other possible sources of funding for building capacity to administer an IDA program in a tribal community include:

- **Native American Housing Assistance and Self-Determination Act**—The Indian Housing Block Grant (IHBG) awarded to a tribe or TDHE under NAHASDA may be used to establish an IDA program. Contact the local tribe, housing authority or TDHE for information on accessing those funds. NAHASDA IHBG recipients (either the tribe or the TDHE) should contact their local ONAP field office prior to establishing an IDA program to assure compliance with NAHASDA requirements.
- **HUD's Rural Housing and Economic Development grant**—This is a competitive capacity building grant targeted to rural communities, including tribal communities, for housing and economic development. Developing an IDA program may be an eligible activity. ~~See~~ <http://www.hud.gov> for more information.

***Where can a tribal community get more information about establishing an IDA program?***

**First Nations Development Institute** First Nations Development Institute was founded in 1980 to help tribes build models of sustainable economic development on reservations and within rural Native American communities. The organization helps mobilize enterprises that are culturally suitable, asset-based, and environmentally sound. It supports local grassroots projects and initiate education and advocacy initiatives to make broad-based changes toward economic self-reliance. For more information, contact First Nations Development Institute, 11917 Main Street,

Fredericksburg, VA 22408, 540-371-5615 fax: 540-371-3505 email:  
info@firstnations.org or visit the Web site at <http://www.firstnations.org>.

**Corporation for Enterprise Development** The Corporation for Enterprise Development (CFED) aims to incorporate Individual Development Accounts (IDAs) and other asset-building tools for low-income people into the policy infrastructure of the United States. CFED offers many publications, including the 4th edition of CFED's *Individual Development Account Program Design Handbook* (1999), and an extensive website containing resources for IDA programs.

For more information or to obtain a copy of the handbook, contact CFED at 202-408-9788 or visit the website at <http://www.cfed.org>.



## APPENDIX F

### **Resources for Infrastructure Development**

#### *United States Department of Agriculture—**Rural Development** —**Rural Utilities Service-Water and Waste Disposal Programs***

The Water and Waste Disposal (WWD) programs of the Rural Utilities Service (RUS) are administered by the United States Department of Agriculture (USDA), Rural Development State and local offices located throughout the country. The programs include loans, grants, and technical assistance to assist rural communities with their drinking water and waste disposal needs.

The State and local Rural Development staff responsible for the delivery of WWD programs work closely with other Federal, State, and local agencies and organizations to maximize the Federal assistance provided in rural America. The Rural Development staff located in offices across rural America work directly with the tribes and other applicants in developing all phases of water and wastewater projects on a day-to-day basis.

WWD loans are made to develop drinking water and waste disposal (including sanitary sewer, solid waste disposal, and storm drainage) systems in rural areas and towns with a population not in excess of 10,000. Direct and Guaranteed loan funds are available to Indian tribes.

WWD grants are made to reduce water and waste disposal costs to a reasonable level for rural users. Grants may be made up to 75 percent of eligible project costs in some cases. The median household income of the service area must be below the State's non-metropolitan median household income. The Fiscal Year 2000 Agriculture Appropriations Act contains a \$12 million set aside for Native American tribes.

Since 1992, more than 100 RUS loans and/or grants have been made to Indian tribes representing more than \$30 million in loans and \$47 million in grants to build or improve water or waste water facilities.

For more information on the WWD programs and who to contact, call (202) 690-2670 or visit the RUS WWD web site <http://www.usda.gov/rus/water>

## ***United States Department of Health and Human Services***

### ***Indian Health Service***

#### ***Sanitation Facilities Construction Program***

The Indian Health Service (IHS) Sanitation Facilities Construction (SFC) program was initiated in 1959 under the authority of PL 86-121. Under this law, IHS is authorized to provide water supply and waste disposal facilities for American Indian and Alaska Native homes. Since 1960, the IHS has provided essential sanitation facilities to serve over 230,000 homes utilizing appropriations of over \$1.6 billion and contributions from other agencies, tribes and states. The proportion of AI/AN homes with essential sanitation facilities (safe water supplies and adequate waste disposal systems) has increased from 20 to 85 percent since the program's inception in 1960. However, availability of such facilities among all U.S. populations is approximately 98 percent.

The SFC program is staffed with engineers, engineering technicians, operation and maintenance specialists, and support personnel. As with other IHS activities, sanitation facilities projects are carried out cooperatively with the Indian people who are to be served by the completed facilities. Tribal involvement has been the keystone of the Sanitation Facilities Program since its inception in FY 1960. Projects are initiated only following receipt of a tribal request expressing willingness on their part to participate in carrying out the project and willingness to execute an agreement to assume ownership responsibilities, including operation and maintenance, for completed facilities.

IHS projects are initiated when a Tribe identifies a need for sanitation facilities and requests IHS assistance. IHS construction funds are allocated by Congress annually and distributed according to prioritized needs. IHS also coordinates with other agencies such as the Department of Housing and Urban Development, the Bureau of Indian Affairs, the Environmental Protection Agency, and the Department of Agriculture Rural Utilities Service who provide funds for construction. Typically, IHS provides the engineering and construction services and overall project management for joint projects with other agencies.

The IHS provides services to over 550 Federally recognized Tribes through 12 Area Offices that manage the program through district and field offices. The services provided include:

- Project pre-planning and consultation with tribes and tribal groups,
- Coordination with other Federal, State, and local government entities,
- Identifying supplemental funding outside of IHS,
- Developing local policies and guidelines with tribal consultation,
- Developing agreements with tribes and other for each project,

Providing project design, engineering, and project and construction management services,  
Assuring that environmental and historical preservation laws are followed,  
Assisting tribes with operation and maintenance of constructed facilities.

In accordance with the Indian Health Care Improvement Act (Title III, Section 302(g) 1 and 2 of PL 94-437), IHS provides an annual inventory of sanitation facility deficiencies affecting existing homes to Congress. In accordance with the Indian Open Dumps Act (PL 103-399), IHS provides an annual inventory of open dumps on Indian lands to Congress. Both of these reports are widely used by Congress and other agencies to evaluate and fund projects.

For more information about IHS, please visit the IHS web site <http://www.ihs.gov>

***United States Department of the Interior-Bureau of Reclamation -Reclamation Program***

The Reclamation Program was established in 1902 to help open up and develop the 17 Western States by developing and building water supply projects to foster economic development of the West. Today, Reclamation is seeking to increase the opportunities for tribes to benefit from the Reclamation Program. Through its five regions, the Bureau of Reclamation, Native American Affairs Program makes Reclamation resources available to Indian Country by assisting tribal governments to protect, manage, and develop water and related resources. Within the Native American Affairs Program, technical assistance is a partnership program provided to tribes to facilitate their water and water-related resources management efforts on reservations and in communities. A wide range of technical assistance activities has been accomplished in support of tribes. One of the main activity areas has been providing technical assistance to tribes in assessing their water supply and treatment needs and identifying potential solutions to those needs. Planning studies and investigations are also accomplished through partnerships with the tribe. Reclamation technical specialists, in concert with tribal resource managers, also accomplish on-site water and wastewater infrastructure assessments.

Reclamation supports several programs that provide educational and training opportunities for Indians. These programs include funding agreements with Central Washington University (CWU), Board of Regents Southwestern Indian Polytechnic Institute (SIPI), Arizona State University (ASU), to educate the Native American people in the management of cultural and natural resources, environmental issues, and water law. The total annual funding level is \$591,000 for FY 2000. Reclamation also participates annually in the Bureau of Indian Affairs' Water Resources Technical Training Program by providing instructors for technical training; and may provide

training as requested by tribes to tribal members to assist them in managing their water and water related resources.

For additional information on the Bureau of Reclamation's Native American Program call Christopher LKenney, Director, Native American Affairs Group, Washington, D.C., at (202) 208-5000.

*Bureau of Indian Affairs-Division of Transportation*

The Bureau of Indian Affairs (BIA) Reservation Roads program is jointly administered by the BIA, Division of Transportation and the Federal Lands Highway Program of the Federal Highway Administration (FHWA) as defined in Title 23 U.S.C., the BIA/FHWA Memorandum of Agreement, and Title 25 C.F.R. part 170.

The purpose of the Indian Reservation Roads program is to provide safe and adequate transportation and public road access to and within Indian reservations, Indian lands and communities for Native Americans and others while contributing to economic development, self-determination, and employment of Native Americans. Included under this general purpose is the development of access roads to housing sites in accordance with tribal road priorities as defined in the Interdepartmental Agreement (IA) on Indian Housing Program, dated September 10, 1996.

Under the IA, the BIA, HUD, and IHS are to form a working relationship for the delivery of services to Tribes and Indian Housing Authorities (IHA(s)) in conjunction with the planning and construction of new Indian housing developments. In paragraph 2.2 of the IA, the BIA is responsible for providing real estate and transportation assistance to an IHA pursuant to 25 C.F.R. parts 162, 169, and 170. In paragraph 2.2 (iii) of the IA, the BIA is responsible for the development of access roads to housing sites in accordance with the Tribe's road priorities. Also in the IA under paragraph 2.2 (iv), the BIA is responsible for providing maintenance services to those IHA constructed roads and streets accepted in the BIA Road System.

For more information about developing and maintaining roads in Indian Country, visit the Indian Reservation Roads program web site <http://www.irr.bia.gov>

### ***Environmental Protection Agency-Indian Programs***

Section 518(c) of the Clean Water Act authorized the Environmental Protection Agency ((EPA) to create a grants program to help pay for the planning, design and construction of wastewater treatment systems to serve Indian Tribes. Tribes face significant human health, water quality and environmental problems because of the lack of adequate wastewater treatment. These problems—and the corresponding lack of existing environmental structure—exist because of many factors, including local economic conditions, disperse populations, political and cultural barriers, and the lack of significant environmental investment by Federal and State agencies.

The Indian Set-Aside (ISA) program seeks to help alleviate these problems and to focus attention on the needs of Native populations. Millions of dollars in grant funds have been made available for wastewater projects on Indian lands. EPA will continue to work with Tribes, Alaska Native Villages and other Federal agencies to achieve adequate wastewater systems. The ISA Program is administered by EPA through a cooperative effort with the Indian Health Service (IHS).

The Safe Drinking Water Act (SDWA) amendments of August 6, 1996, made a number of changes to the United States' drinking water program. One of the most significant changes to the SDWA was the establishment of a program that authorizes EPA to distribute Federal funds among States and Tribes for needed public drinking water system infrastructure improvements.

While the SDWA provides for the possibility that some Tribes may be able to seek and get loans from the State in which the tribal water system is located, the SDWA also authorizes EPA to set aside a portion of each year's appropriation and use it to make direct grants (not loans) for capital improvements to public water systems that serve Indian Tribes.

EPA's Office of Ground Water and Drinking Water (OGWDW) has developed an allotment formula that will distribute each year's available set-aside funds among the nine EPA Regions with Tribal programs. OGWDW will allot the funds to the EPA Regional offices. In consultation with IHS and the Tribes in their Region, each EPA Region will be responsible for identifying potential projects, for prioritizing those projects, for selecting the ones to receive funding from its share of the Set-Aside Program allowance. The Region's priority system must ensure that funding priority be given to projects that address the most serious public health risks, are necessary to ensure compliance with SDWA requirements, and assist systems most in need. The EPA Regional Offices will be responsible for managing any grant award and for administering and tracking project progress after an award; or for transfer of any funds to IHS via an Interagency Agreement.

Additional information about EPA and its Indian programs is located on the Internet at <http://www.epa.gov/OGWDW>

## APPENDIX G

### **Summary of Federal Government and Government-Sponsored Enterprise Loan Programs**

#### **U.S. Department of Housing and Urban Development (HUD)**

Within HUD, there are two separate organizations—the Office of Native American Programs (ONAP) and the Office of Housing’s Federal Housing Authority (FHA)—that sponsor loan programs for Native Americans. ONAP has authority for the Section 184 loan guarantee program and FHA provides an insurance program called Section 248.

#### Section 184: Indian Home Loan Guarantee Program

<http://www.codetalk.fed.us/loan184.html>

The Indian Home Loan Guarantee Program (Section 184), created by Congress in 1992, gives Native Americans access to sources of private mortgage financing by providing loan guarantees to lenders. Eligible lenders include banks, savings & loans, credit unions and approved mortgage companies. Section 184 covers one-to-four family homes located in an Indian or Alaska Native area where the land may be tribal trust, allotted individual trust or fee simple. The loans may be used for the acquisition, construction, rehabilitation or acquisition and rehabilitation of a home.

Borrowers that meet the credit and underwriting standards of the program are eligible for a Section 184 loan. They include: (1) any person recognized as being Indian or Alaska native by an Indian Tribe, who will occupy the property as a principal residence; 2) a Tribally Designated Housing Authority (TDHE); and 3) an Indian Tribe. A TDHE or tribe may borrow funds to develop single-family homes that are subsequently sold to eligible borrowers or to create tribally owned rental housing.

Section 184 guaranteed loans offer the following important features:

- Low downpayment
- Market interest rate, negotiated between lender and borrower
- One percent loan guarantee fee, payable in cash or financed and added to the mortgage
- An assumable mortgage (to a credit-qualified borrower)
- Right to prepay without penalty
- In the event of foreclosure, property may be sold by HUD to the tribe, TDHE or tribal member

As of June 2000, ONAP has guaranteed over 700 loans under the Section 184 program.

Section 248: Mortgage Insurance Program for Native Americans

<http://www.hud.gov/fha/sfh/nativ/sfh248.html>

The Section 248 insurance program was implemented in 1986 and was specifically designed to allow FHA to insure mortgages on Indian lands held in trust by the United States government to purchase, construct, rehab or refinance a single-family property (one to four family units). Under this program, FHA insures the mortgage that a Native American family obtains from a private lender. Prior to this program, it was nearly impossible to obtain a mortgage on a reservation due to the restriction on land ownership.

To be eligible, the property must be single-family (one to four family units), the property must be their principal residence, and meet credit and underwriting standards. To obtain a loan, the borrower must apply to a FHA approved lender. The maximum loan depends on FHA's mortgage limits for the area and the appraised value of the home. The minimum down payment is three percent of the acquisition and can be a gift from an eligible party. Closing costs may be financed. A Mortgage Insurance Premium of one-half of one percent is charged monthly to insure the loan.

**U.S. Department of Agriculture's Rural Housing Service**

<http://www.rurdev.usda.gov/rhs/>

The following loan programs are administered by the Rural Housing Service (RHS), an agency within the Rural Development mission area of the U. S. Department of Agriculture:

Rural Housing Loans:

The Rural Housing Service (RHS) offers two types of homeownership loans: guaranteed and direct. The purpose is to provide homeownership opportunities to low and moderate income rural families and individuals through financing—with no down payment and at favorable rates and terms—either through a direct loan with RHS or with a loan from a private financial institution which is guaranteed by RHS. These loans are for the purchase, construction, rehabilitation, or relocation of a home.

Families and individuals must meet the following eligibility criteria:

- Be without decent, safe and sanitary housing.
- Be unable to obtain a loan from other sources on terms and conditions that they can reasonably be expected to meet.



- Have sufficient income to pay house payments, insurance premiums and taxes, and necessary living expenses. Persons with inadequate repayment ability may obtain co-signers for the loan.
- Possess the legal capacity to incur the loan obligation.
- Possess the ability to carry out the undertakings and obligations required in connection with the loan.
- Have a credit history which indicates a reasonable ability and willingness to meet obligations as they become due.
- Properties financed must be in rural areas including open country and places with populations of 10,000 or less and under certain conditions, towns and cities between 10,000 and 20,000 population.

*Section 502 Direct Single-Family Housing Loans* The direct loan program can be used either as a down payment assistance to enable purchase with a loan through a private lending source, or as a sole source of assistance for those unable to obtain any part of the needed credit from another lending source.

- Applications and loans are processed with the local Rural Development office.
- Loans may be made up to 100 percent of the market value.
- Total loan cannot exceed the current HUD 203b limit.
- Low and very-low income limits apply.
- Mortgages are fixed rate, 33- to 38-year terms.
- Payment assistance subsidy reduces monthly payments for eligible applicants.
- Loans can be made on Tribal Trust lands with an approved lease.

*Section 502 Guaranteed Single-Family Housing Loans* A loan may be guaranteed through a private lender if the principal purpose of the loan is housing acquisition, which may include purchase new, purchase existing, or purchase and improve an existing dwelling.

- Applications are made with approved lenders.
- Mortgages are 30 years fixed-rate.
- Interest rates are negotiated by the applicant and lender.
- Loans may be made up to 100 percent of market value.
- Maximum loan amounts will be dictated by an applicant's income and loan repayment ability.
- Moderate and Low income limits apply.
- Loans may be made on Tribal Trust lands through ~~the~~ *Rural Housing Native American Pilot Loan (RHNAP)*. Individual members of any federally recognized Indian or Alaska Native tribes that have been approved by Fannie Mae and RHS to participate in the pilot are eligible to participate in this guaranteed program.

*Mutual Self Help Housing Program* Technical Assistance Grants are available to organizations (including Tribes or tribal corporations) to pay the cost of developing and administering a program of technical and supervisory assistance to aid groups of very low & low income families to build their own homes. Individuals qualifying for Section 502 Direct Loans can use the funds to purchase building materials and to hire subcontractors for the skilled labor they cannot furnish themselves. The families must agree to work together until all homes are finished.

### Home Improvement and Repair Loans and Grants

*Section 504 Loans and Grants* The objective of the program is to enable very-low income owners/occupants of modest single-family homes in rural areas make necessary repairs. Loan funds are available for repairs to improve or modernize a home, remove health and safety hazards, and to make homes accessible for people with disabilities.

- The maximum grant amount is \$7,500 and the maximum loan amount is \$20,000.
- The interest rate is one percent with a maximum term of 20 years.
- Grants are available for people 62 years old and older who cannot afford to repay a loan.
- Ownership by way of a Leasehold interest of Trust land is acceptable with certain terms.

### **U.S. Department of Veterans Affairs**

<http://www.homeloans.va.gov/native.htm>

### VA Direct Home Loans for Native American Veterans

Since 1992, VA has promoted homeownership among Native American veterans through the Native American Veteran Direct Loan Program. This program was designed to fill the gap between Native American veterans residing on trust territory who have historically had difficulty in achieving homeownership, and veterans who did not reside on trust territory and who were not experiencing the same degree of difficulty in purchasing homes.

Under this program, VA is able to deliver home loan benefits to eligible veterans who, for all practical purposes, have been unable to use these benefits. Since Native Americans residing on trust territory are rarely able to obtain title to the land, and since access to the land can be problematic, lenders have historically been reluctant to make loans for properties on trust land. By becoming the lender, VA is able to make loans for up to \$80,000 (more in areas designated as high cost) to Native American veterans to purchase, construct or improve a home on trust territory. It is hoped that a

positive VA lending experience will encourage private mortgage lenders to participate in making loans to Native Americans.

To date, VA has entered agreements with 54 tribes and Pacific Island groups interested in pursuing this program on their trust territory. Negotiations are ongoing with approximately 20 more tribes. VA has closed approximately 200 loans.

### VA-Guaranteed Home Loans For Veterans

VA guaranteed loans are made by private lenders, such as banks, savings & loans, or mortgage companies to eligible veterans, including Native American veterans, for the purchase of a home on fee simple land which must be for their own personal occupancy. To get a loan, a veteran must apply to a lender. If the loan is approved, VA will guarantee a portion of the loan to the lender. This guaranty protects the lender against loss up to the amount guaranteed and allows a veteran to obtain favorable financing terms.

There is no maximum VA loan but lenders will generally limit VA loans to \$203,000. This is because lenders sell VA loan since the secondary market, which currently places a \$203,000 limit on the loans. For loans up to this amount, it is usually possible for qualified veterans to obtain no downpayment financing. A veteran's maximum entitlement is \$36,000 (or up to \$50,750 for certain loans over \$144,000). Lenders will generally loan up to four times a veteran's available entitlement without a downpayment, provided the veteran is income and credit qualified and the property appraises for the asking price.

VA direct and guaranteed loans offer the following important features:

- No downpayment (unless required by the lender or the purchase price is more than the reasonable value of the property)
- Negotiable interest rate
- Ability to finance the VA funding fee (plus reduced funding fees with a downpayment of at least five percent and exemption for veterans receiving VA compensation)
- No mortgage insurance premiums
- An assumable mortgage
- Right to prepay without penalty
- VA assistance to veteran borrowers in default due to temporary financial difficulty



## **Native American Conventional Lending Initiative (NACLI)**

### **A guide for tribes and lenders on conventional lending to Native Americans**

November 1999

Fannie Mae—the Nation's largest owner of single-family mortgages—has a comprehensive line of products that makes obtaining a mortgage loan a viable option for an increasing number of Native Americans. Fannie Mae does not lend money directly to home buyers, but instead helps to ensure that mortgage funds are available to lenders on a regular basis.

Under the Native American Conventional Lending Initiative (NACLI), we offer conventional loan products on unrestricted fee simple land; federally restricted trust land; and tribally restricted fee simple land. This includes a loan product, available on fee simple or restricted lands, that requires only a one percent down payment from the borrower's own resources, when additional mortgage insurance (MI) coverage is provided. There may be additional loan requirements based on the legal status of the land.

#### **Unrestricted fee simple land**

Unrestricted fee simple land is land that falls under the legal jurisdiction of State court, and is subject to applicable State law. For this type of property, all Fannie Mae conventional products are available, including: the Community Lending Product line (Community Home Buyer's Program, Fannie 97® and Fannie 3/2) with Community Lending Options (FannieNeighbors®, Community Seconds®, Community Land Trust, and Lease-Purchase); standard conventional fixed-rate loans; adjustable rate mortgages; Flexible 97; HomeStyle Community; Rural Housing Services Direct Leveraging product for rural areas; and the new one percent down payment pilot with PMI mortgage insurance (see INSERT "A").

#### **Federally restricted trust land or tribally restricted fee simple land**

Many Native Americans find that access to conventional mortgage credit (non-government loan products) is limited because they live on lands that are reserved for them by treaty or Federal law and are governed by separate tribal judicial systems. By using NACLI on restricted lands, conventional mortgage lending is now available

where tribal courts have jurisdiction over mortgage lending, and resale of properties is restricted within a tribe.

The balance of this bulletin applies solely to federally restricted trust or tribally restricted fee simple land. Fannie Mae will purchase, on a negotiated basis and in accordance with the requirements listed below, conventional fixed-rate mortgage loans that are made to Native Americans living on federally restricted trust land, or tribally restricted fee simple land. Federally restricted trust land is land owned by the Federal Government and held in trust for the tribe or individual Native American. Tribally restricted fee simple land is land within tribal boundaries, subject to tribal court jurisdiction or tribal transfer restrictions.

**Eligible lenders**

Lenders must be Fannie Mae-approved sellers/servicers and have special Fannie Mae approval to participate.

**Eligible tribes**

Tribes that have jurisdiction over lands restricted to tribal members or tribally approved occupants are eligible. Before any lending may take place, a tribe must first be approved by Fannie Mae. To be approved, the tribe's laws must be reviewed by the Fannie Mae regional legal department to determine whether the tribe provides the legal protections needed for mortgage lending, including priority of lien and preserving the lender's right to foreclose, evict, and resell, if necessary. A tribe must also enter into an acceptable agreement with Fannie Mae. This agreement generally includes 1) a Tri-Party Agreement with Fannie Mae and lenders, which ensures that Fannie Mae and the lenders will be authorized and permitted to enforce mortgage-related documents and to carry out foreclosures and evictions, if necessary, on trust or restricted lands; 2) lease requirements, and note and mortgage riders, to be used; and 3) any credit enhancement requirements. The need for credit enhancement will be determined based on a review of appraisals, the market for foreclosed properties, the history of foreclosures, the basis for appraisals, and individual borrower credit histories.

**Eligible borrowers**

NACLI loans are available to any person living on the restricted lands of an approved tribe. Individuals who are not tribal members will generally have to get permission from the tribe that has jurisdiction to live on the trust land. Indian or Alaskan tribes and Indian Housing Authorities (IHAs) are also eligible borrowers.

**Eligible properties**

One- to four-family principal residences, including units in condominiums, and manufactured housing that is permanently affixed to the property, are eligible. Fannie Mae must specifically review and approve the laws applicable to a manufactured

housing project. Homes must be located on federally restricted trust lands, or tribally restricted fee simple land.

Any construction or rehabilitation must be completed before loans can be sold to Fannie Mae, except, home renovations completed under HomeStyle Community loan product can be sold before renovations are complete. Properties can be new, existing, or rehabilitated properties.

**Loan eligibility**

First-lien, fully amortizing, level-payment mortgages are eligible. Loans may be assumable or due-on-sale; tribal institutions are generally eligible to assume loans (assumptions by tribal institutions must be approved by Fannie Mae). Loan products available include: all Fannie Mae conventional products, including: the Community Lending Product line (Community Home Buyer's Program, Fannie 97 and Fannie 3/2) and Community Lending Option FannieNeighbors, Community Seconds, Community Land Trust, HomeStyle Community, and Lease-Purchase); standard conventional fixed-rate loans; adjustable rate mortgages; Flexible 97; and the Rural Housing Services Direct Leveraging product for rural areas. The mix of products made available will vary by tribe, and will depend on a risk assessment done by Fannie Mae that considers borrower credit characteristics, the market for foreclosed properties, the basis for appraisals, and the history of foreclosures. Loans made to tribes are considered by Fannie Mae to be secured by investment properties, but investor fees will be waived. Investor fees are not waived on second homes owned by individuals.

A special one percent borrower down payment loan is available when additional mortgage insurance is provided. The additional down payment will be required from the tribe or its designated entity, for a maximum LTV of 97 percent (95 percent using HomeStyle Community). Acceptable variances and MI coverage is described in the attached chart. PMI Mortgage Insurance Co. is offering the necessary MI coverage by entering into a risk-share agreement with the tribe.

**Loan terms**

10-, 15-, 20-, or 30-year term.

**Execution**

Cash and Mortgage-Backed Securities (MBS).

**Special loan representations**

The lender must make the following special representation to Fannie Mae about the loans:

- The loan is eligible under NACLI.

- The Bureau of Indian Affairs (BIA) has approved any related loan documents. (For federally restricted trust land).
- Any ground lease and mortgage have been recorded in the appropriate BIA Land Titles and Records Office, the applicable county recorder's office in the State where the property is located, and any other applicable recording office. (For federally restricted trust land).
- The tribe continues to provide legal protections for mortgages.

### **Documentation**

The loans will use current Fannie Mae/Freddie Mac Uniform Instruments. On a tribe by tribe basis, the borrower will be required to use a Fannie Mae-approved ground lease, or other mortgage instruments developed for the initiative. Special note and mortgage riders are required and available from Fannie Mae. Any changes to the Uniform Instruments, documents or riders must be approved by Fannie Mae.

### **Education and counseling**

Fannie 97 requirements apply for home buyer education and early delinquency counseling.

### **Appraisals**

Appraisals will meet Fannie Mae standards, and will require sales comparisons. Appraisers may use comparisons to properties not located on trust or restricted lands if there is an empirical basis for adjusting the appraisal to reflect resale restrictions. If sales comparisons are not available, a third party, typically the tribe, will have to credit enhance the loans, or if the 1 percent down payment product with PMI MI is used, the loan must have 40 percent MI coverage. For specially approved lenders, manufactured housing may be appraised using Fannie Mae's Advance Formula Method which uses acquisition costs and set-up fees to determine value.

### **Underwriting**

Borrower and servicing requirements include those specified in the Selling Guide for eligible products. Eligible Community Lending products may be used regardless of income, although borrowers over 120 percent of area median income must make a down payment of at least five percent from their personal funds.

### **Title Insurance**

Title Insurance must be acceptable to Fannie Mae.

### **Mortgage Insurance**

Private mortgage insurance requirements apply. In addition, Fannie Mae offers a mortgage insurance option in partnership with PMI Mortgage Insurance Co. where PMI will enter into a risk-share agreement with the tribe and provide 35 percent MI,

or if cost-based appraisals are used, 40 percent MI. The agreement will allow the borrower to only contribute one percent toward the down payment with the tribe contributing two percent for Fannie 97 and four percent for HomeStyle Community and other 95 percent loan products.

**Maximum loan-to-value (LTV) ratios**

The requirements for LTV ratios will be the same as those specified for the eligible products.

**Commitments**

An Addendum to the lender's Master Agreement is required. NACLI loans cannot be commingled with other loan types when selling for cash. For MBS, NACLI loans may be delivered in pools with any other conventional loans similar in type and term.

- *Cash*—Mandatory commitments are available on a negotiated basis through your lead Fannie Mae regional office.
- *MBS*—Pool purchase contracts are available on a negotiated basis through your lead Fannie Mae regional office. The special prefix "CA" will be assigned if the loan is assumable. Both the Regular and Special servicing options are available.

**Servicing fee**

The minimum required servicing fee is 25 basis points.

**Remittance type**

Actual/Actual for cash; Scheduled/Scheduled for MBS.

**Cash pricing**

The rates, required yields, and pricing indications will be established when the commitment is negotiated. Pricing varies by risk, and depends upon the products being offered.

**MBS Pricing**

MBS guaranty fees will be established at the time the pool purchase contract is negotiated, and will be based on the servicing option and remittance cycle chosen.

**Special delivery procedures**

The following information must be included on the Loan Schedule (Form 1068) for cash transactions, on the Schedule of Mortgages (Form 2005) for MBS transactions, or in the MORNET Cash Delivery System® or MBS Pool Submission System®:

- Special Feature Code 221—to indicate that the loan is eligible for NACLI.
- Special Feature Code 403—to indicate that INSERT "A" provisions are being used.



**Further information**

For additional information on NACLI or to apply for lender approval, contact your lead regional office at the number listed below.

**Greg Awad**

Southeastern Region  
(404) 398-6806

AL, DC, FL, GA, KY,  
MD, MS, NC, SC, TN,  
VA, WV

**David Fuentes**

Midwestern Region  
(312) 368-6357

IA, IL, IN, MI, MN,  
NE, ND, OH, SD, WI

**Ron Fong**

Western Region  
(626) 396-5388

AK, AZ, CA, GU, HI,  
ID, MT, NV, OR, WA,  
WY

**Mark Vanderlinden**

Southwestern Region

(505) 247-8800

AR, CO, KS, LA, MO,  
NM, OK, TX, UT

**Susanne Marzi**

Northeastern Region

(617) 426-0724

CT, DE, ME, MA, NH, NJ,  
NY, PA, PR RI, VT, VI

**Insert A—**  
**Native American Underwriting in Connection with PMI Mortgage Insurance**  
**Co. for Fee Simple and Tribal Trust Land**

In cooperation with PMI Mortgage Insurance Co., Fannie Mae now makes available a new loan product that requires only a one percent down payment borrower contribution and is available on fee simple or trust land when additional mortgage insurance (MI) coverage is provided. Tribes interested in having this product available should contact PMI at 1-800-759-4764.

Maximum LTV	97 percent for non-rehab and new construction (Fannie Mae will purchase after completion). 95 percent for HomeStyle Community and other Community Home Buyer's Program 95 percent loan products.
CLTV	105 percent
Borrower Contribution	One percent (balance of down payment can be paid by tribe)
Reserves	2 months
Down Payment Sources	Community Seconds permitted (Tribe and employer specifically included as acceptable provider); employer funded grants and unsecured loans, and other Community Lending sources acceptable. Standard Community Seconds Guidelines apply.
Ratios	33/38; may be exceeded with compensating factors; Cash reserves and/or borrower contribution exceeding guidelines Borrower demonstrated an ability to repay debt in a timely fashion by no delinquencies in the last 24 months. Borrower has a 3-year history of income stability.
Credit History	Standard credit based on Fannie Mae Selling Guide, Announcements, and Lender Letters to lenders with the allowance for collections. Mandatory payment of collections won't be necessary with the following conditions: <ul style="list-style-type: none"><li>• Collections due to documented isolated instance and extenuating circumstances.</li><li>• The borrower has established a payment plan with the creditor and made timely payments for the past 6 months.</li><li>• The payment plan agreement with the creditor must outline the terms of the repayment.</li><li>• The borrower has a minimum of four other trades, one of which</li></ul>

	<p>can be rental history, which have been paid on time and are current. Nontraditional credit is acceptable.</p> <ul style="list-style-type: none"> <li>• There are no late payments on the rental history in the past year.</li> <li>• Chapter 13 bankruptcy must be discharged but re-establishment of credit is not required because payments during the bankruptcy will be considered as re-establishment; must be due to documented extenuating circumstances.</li> </ul>
Employment	<p>Gaps in employment over the past 24 months are allowable, provided no gap exceeds 30 days. When gaps exceeding 30 days exist, the following guidelines are recommended if there is a borrower and a co-borrower.</p> <ul style="list-style-type: none"> <li>• Minimum one borrower must have uninterrupted 24 months employment/income history.</li> <li>• The borrower experiencing job gaps must have a minimum of 9 months employment/income history and only 50 percent of that income will be used to qualify.</li> </ul>
Acceptable Income	<ul style="list-style-type: none"> <li>• Foster care with a minimum 1-year history acceptable if no more than 30 percent of qualifying income.</li> <li>• Documented income to Native Americans from Federal or Tribal Governments.</li> <li>• Seasonal income such as agricultural, is also acceptable to be considered as qualifying income. Borrower must have a 12-month history of receipt and it must continue for the foreseeable future.</li> </ul>
Rehab	<p>HomeStyle Community product with 50 percent rehab acceptable. Standard HomeStyle Community Mortgages “recourse” in the event of default during rehabilitation.</p>
Buy down	<p>Permanent permitted.</p>
Cash-on-hand	<p>Cash-on-hand is acceptable if it can be documented that the borrower has not established savings/checking accounts and if the borrower has not established traditional forms of credit. An in-house credit report merging three repositories will be ordered prior to underwriting. All standard Fannie Mae cash-on-hand guidelines apply. Borrowers with cash-on-hand will not be eligible if they have ever filed bankruptcy.</p>
Property	<p>Fee simple property or located on federally or tribally restricted trust lands.</p>

Mortgage Insurance      90.01—97 35 percent  
                                      85.01—90 25 percent  
                                      80.01—85 22 percent

When using cost based appraisals, mortgage insurance coverage will be increased to the following levels to provide additional credit enhancements.

90.01—97 40 percent  
 85.01—90 30 percent  
 80.01—85 25 percent

Homebuyer Education      Homebuyer education can be provided by PMI Mortgage Insurance Company. Or one of the tribal housing authorities that has received training in providing quality homebuyer education.

Additional Conditions      Lender to obtain FICO score at origination and report through Mornet at deliver.

# FREDDIE MAC

## Conventional Lending for Native Americans

Freddie Mac's full line of single-family mortgage offerings is available to lenders making conventional loans to Native Americans on unrestricted fee simple land; federally restricted trust land; and tribally restricted fee simple land.

### Eligibility:

- Must be an approved Freddie Mac Seller with specific approval to participate in the programs.
- Participating tribes must be Freddie Mac approved.
- The tribe's laws must be reviewed by Freddie Mac's Legal Department and found acceptable.
- An agreement between the tribe and the lender must be executed.

### Borrowers:

- Tribal members and those who have permission from the tribe to obtain financing on restricted lands
- Indian and Alaskan tribes
- Indian Housing Authorities
- Tribally Designated Housing Entities

### Eligible properties

- One- to four-family primary residences
- ▬ Condominium residences
- ▬ Manufactured housing that conforms to Guide

### Loan eligibility

30-, 20-, and 15-year fixed rate mortgages

### Special loan representations

- For federally restricted trust lands, The Bureau of Indian Affairs (BIA) must have approved related loan documents.
- Any lease and mortgage have been recorded in the appropriate BIA Land Titles and Records Office, the applicable county recorder's office in the State where the property is located, and any other applicable recording office. (For federally restricted trust land).
- The tribe continues to provide legal protections for mortgages.

### Homebuyer Education

Required per guidelines for particular loan type as defined in the Seller's Guide.

**Title Insurance**

Title Insurance must be acceptable to Freddie Mac.

## APPENDIX H

### Model Interagency Lease and Lending Procedures

#### RESIDENTIAL LEASE OF TRIBAL OWNED LAND

Lease  
No. \_\_\_\_\_  
Contract No. \_\_\_\_\_

THIS Lease is made and entered into by and between \_\_\_\_\_ for and on behalf of \_\_\_\_\_ Tribe of Indians, hereinafter designated as "Lessor," and \_\_\_\_\_, members of the \_\_\_\_\_ Tribe and residing upon the \_\_\_\_\_ Indian Reservation, hereinafter designated as "Lessee."

#### WITNESSETH

1. SECRETARIAL APPROVAL; FEDERAL AGENCY APPROVAL; DEFINITIONS OF FEDERAL AGENCY, TRIBE, and LENDER. As used in this Lease, the term "Secretary" means the Secretary of the Interior or his or her duly authorized representative. This Lease is subject to the approval of the Secretary pursuant to the Act of August 9, 1955, 69Stat. 539, as amended, 25U.S.C. § 415, as implemented by Title 25, Code of Federal Regulations, Part 162. The form of this Lease has been accepted by the Secretary of Housing and Urban Development (HUD) pursuant to 24 C.F.R. § 203.43h(c), which implements Section 248 of the National Housing Act, 12 U.S.C. § 1715z-13, for use in connection with Federal Housing Administration (FHA) insurance of a mortgage on the interest created by this Lease, and pursuant to 24 C.F.R. § 1005.107, which implements Section 184 of the Housing and Community Development Act of 1992 (Pub. L. 102-550) for use in connection with HUD's issuance of a loan guarantee of a mortgage on the interest created by this Lease. The form of this Lease has also been accepted by the Secretary of the United States Department of Agriculture (USDA) for use in connection with the issuance by USDA or its Rural Housing Service (RHS) of a direct or guaranteed loan pursuant to section 502 of the Housing Act of 1949 as amended, 42 U.S.C. § 472, and accepted by the Secretary of the Veterans Affairs (VA) for use in connection with the issuance by VA of a direct or guaranteed loan pursuant to chapter 37 of Title 38, United States Code, secured by the interest created by this Lease. As used in the context of this Lease, the term "Tribe or Tribal" refers to the respective Tribe who enters into this Lease as the "Lessor". For future reference, "Federal Agency" refers to HUD, VA, and USDA. When used in this Lease, the "lender" is any mortgagee that a Federal Agency has approved or a Federal Agency which makes a direct loan. With respect to mortgages which are insured under Section 248 of the National Housing Act, the lender must be approved by the Federal Housing Administration. The term "lender" also includes any of the lender's



successors or assigns of the lender's right, title to, or interest in, the Mortgage and any subsequent noteholder secured by the Mortgage. The assignment of the mortgage or any interest therein does not require the consent of the Tribe.

2. PREMISES. Lessor hereby Leases to the Lessee all that tract or parcel of land situated on the \_\_\_\_\_ Indian Reservation, County of \_\_\_\_\_, State of \_\_\_\_\_, and described as follows (the Leased Premises):

[description], \_\_\_\_\_ County, \_\_\_\_\_  
Indian Reservation, \_\_\_\_\_, approximately  
\_\_\_\_\_ acres.

3. USE OF PREMISES. The purpose of this Lease is to enable the Lessee to construct, improve, and maintain a dwelling and related structures on the Leased Premises, and otherwise to use said premises as a principal residence. The Lessee agrees not to use any part of the Leased Premises for any unlawful conduct or purposes and will comply with all applicable Federal Laws.

4. TERM. Lessee shall have and hold the Leased Premises for a term of \_\_\_\_ years beginning on the effective date of this Lease. This Lease may not be terminated by either or both parties during its term if, and as long as, the Lease and/or any improvements on the premises, or any interest therein, is mortgaged or otherwise pledged as security for any loan in accordance with the provisions hereof, unless consent in writing to such termination is given by the lender and, if the loan is guaranteed, insured, or made by a Federal Agency, a written consent of that agency is also required. This Lease shall not be subject to any forfeiture or reversion and shall not be otherwise terminable, if such event would adversely affect any interest in the Leased Premises, including improvements thereon, acquired in accordance with the provisions hereof by the holder of any mortgage or other lien, or of any purchaser at a foreclosure sale under such mortgage (or lien) or under any conveyance given in lieu of foreclosure, or of any holder subsequent to such purchase. In the event a Federal Agency acquires a mortgage on the interest created by this Lease by assignment from a lender, the Lessor shall not terminate the Lease without the written consent of the respective Federal Agency, as long as the mortgage is in force.

5. RENT. The improvement of housing for Tribal families is a public purpose of the Lessor. The consideration for this Lease is (1) the obligation of Lessee to further said purpose, (2) the promise hereby given by Lessee to pay the Lessor rent at the rate of \$\_\_\_\_\_ per \_\_\_\_\_, (3) the extinguishment, hereby agreed to by Lessee, of any and all use rights heretofore held by Lessee in the Leased Premises, so that Lessee shall hereafter hold rights only by virtue of this Lease, and (4) other good and valuable considerations, the receipt of which is hereby acknowledged by Lessor. Rent may be subject to adjustment pursuant to 25 CFR 162.

6. IMPROVEMENTS. All buildings or other improvements now existing or hereafter constructed on the Leased Premises shall be the leasehold property of the Lessee during the term of this Lease, including any extension or renewal thereof. During the term of this Lease, Lessee shall obtain any necessary governmental permits, approvals or authorization required for the construction and use of all improvements he or she (they) places or cause(s) to be placed on the Leased Premises, and shall comply with all laws applicable to the construction and use of improvements.

7. USE RIGHT. Upon expiration of this Lease, or upon its termination in accordance with the terms hereof, unless such termination is due to default upon the part of Lessee, Lessee or any successors in interest shall be entitled to use rights in the Leased Premises if qualified under the laws of the Tribe. If not so eligible, Lessee, his or her (their) subLessee and any successors in interest shall, upon demand, surrender to Lessor upon expiration or other termination of this Lease complete and peaceable possession of the Leased Premises and all improvements thereon which have not been relocated as permitted under Paragraph 23 of this Lease, which shall be the property of the Tribe.

8. FEDERAL SUPERVISION.

- (a) Nothing contained in this Lease shall operate to delay or prevent a termination of Federal responsibilities with respect to the Leased Premises by the issuance of a fee patent, the lifting of restrictions on alienation, or otherwise during the term of the Lease; such termination, however, shall not serve to abrogate the Lease.
- (b) No member of Congress or any delegate thereto or any Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise therefrom.

9. QUIET ENJOYMENT. Lessor agrees to defend the title to the Leased Premises and also agrees that Lessee and any successors in interest shall peaceably and quietly hold, enjoy and occupy the Leased Premises for the duration of this Lease without any hindrance, interruption, ejection or molestation by Lessor or by any other persons whomsoever, except if the requirements of any part of this Lease are not kept by the Lessee. Notwithstanding the foregoing, Lessee and his or her (their) assigns is (are) subject to all the laws of the Tribe to the same extent as any other Tribal member or resident.

10. ASSIGNMENT AND SUBLEASE. (a) Except as otherwise provided herein, Lessee shall not assign or sublet this Lease without the prior written consent of the Lessor and sureties (as found in 25 CFR 162 ), and approval of the Secretary of the

Interior. If this Lease and/or any improvements on the Leased Premises are mortgaged or pledged as security for a loan, Lessee shall not assign or sublet this Lease without the written approval of the lender and the respective Federal Agency. Lessee may assign the Lease and deliver possession of the Leased Premises, including any improvements thereon, to the lender or its successors, or Federal Agency guaranteeing or insuring the loan, if Lessee default(s) in any mortgage or other loan agreement for which the Lease and/or improvements on the Leased Premises are pledged as security, and, in such event, the lender or its successors in interest may transfer this Lease or possession of the Leased Premises to a successor Lessee; provided, however, that the Lease may only be transferred to another member of the Tribe or tribal entity. Nothing in this Lease shall prevent the Lessee, with the approval of the Secretary of the Interior and the Secretary of HUD (for Section 248 insured loans), from executing and recording a mortgage, declaration of trust and/or other security instrument as may be necessary to obtain financing for the purchase of a dwelling, refinancing of an existing mortgage construction and/or improvement of a dwelling and related structures, or shall prevent the mortgagee or other lender from foreclosing or instituting other appropriate proceedings under law in the event of default of any mortgage or other loan agreement by the Lessee, or assigns. Except in cases involving loans for home construction or home improvement by a bank, recognized lending institution, or a lending agency of the United States Government, where no such consent or approval of Lessor shall be required, Lessee may not execute a mortgage, declaration of trust or other security instrument pledging their interest in this Lease or any improvements on the Leased Premises without the prior written consent of Lessor and the approval of the Secretary.

Notwithstanding the provisions contained above, the following additional requirements shall be applicable to a Lease which secures a mortgage insured, guaranteed or held by a Federal Agency:

(b) Notwithstanding that the term sublease is used herein, the Lessee shall not sublease the premises if the Lease is the security for a mortgage insured under Section 248. The lessee may assign the lease in accordance with the terms hereunder.

In the event a Federal Agency is the lender or acquires the mortgage secured by this Lease, and subsequently acquires said Lease by foreclosure, or by the assignment of said Lease by Lessee, his or her (their) Lessees or assigns (for which the approval of the Tribe is not required), then:

- (1) The appropriate Federal Agency, (the Agency involved in this transaction) will notify the Tribe of the availability of the Lease for sale, the sales price of the home and other terms of sale.
- (2) The Lease may only be assigned to another tribal member or tribal entity, except that the appropriate Federal Agency may lease the Leased Premises to a non-member under the conditions specified herein. Any such sublease or assignment shall be executed consistent with tribal law and Federal law.

(3) If a purchaser is found, the Lease will be transferred by the Federal Agency, to the purchaser, with the prior written consent of the appropriate Tribe.

(4) If a purchaser cannot be found, the appropriate Federal Agency, shall be entitled to sublease the Leased Premises and improvements without the prior written approval of the Tribe. Such sublease shall be to a member of the Tribe, unless a tribal member Lessee cannot be found, in which case the Federal Agency may sub-Lease to any individual. The term of the initial Lease period and any succeeding period shall not exceed one year each. Any purchase of the Lease shall be subject to any sublease by the Federal Agency pursuant to this subsection.

(5) No mortgagee (except a Federal Agency as mortgagee or assignee of a mortgagee) may obtain title to the interest created by this Lease without the prior written consent of the Tribe.

In the event that the lender is the entity responsible for acquiring the Lease and the leasehold estate by foreclosure, the lender shall have the rights of the Federal Agency who had insured or guaranteed the foreclosed mortgage under subparagraphs (1) through (5) above, provided this sentence does not apply to loans insured under HUD/FHA's Section 248 program.

11. OPTION. Subsequent to Lessee's breach of any covenant or agreement under a mortgage or other security instrument for which the Lease or any improvements on the Leased Premises are pledged as security, and upon the expiration of any applicable cure period, the Lessor shall have an option (the "option" herein) to acquire the Lessee's Leasehold interest, (subject to all valid liens and encumbrances) upon either payment in full of all sums secured by the mortgage or assumption of the loan with the approval of the lender or the applicable Federal Agency as evidenced by the note and mortgage and execution of an assumption agreement acceptable in all respects to the Lender. Such option is subject to the following conditions:

- (a) If the Lessee or any assignee of Lessee fails to cure the default, The lender shall give written notice to the Lessor and any applicable Tribal housing authority of Lessee's of its assignee's failure,
- (b) If the Lessee fails to cure the default, and said notice shall be given before the lender or successor invokes any other remedies provided under the mortgage or by law. Thereafter, the lender may issue an acceleration notice to the Lessee, its Lessees or assigns, under the mortgage or other security instrument, requiring the Lessee, its Lessees or assigns to pay all sums secured by the mortgage or other security instrument. If the Lessee, its Lessees or assigns fail to cure the default in accordance with the terms of the lender's acceleration notice, the lender shall give the Lessor written notice of said failure to cure. The Lessor may exercise its option at any time within thirty (30) days of the date of the lender's written notice to the Tribe

of said failure to cure. This option shall be exercised by notice in writing from the Lessor to the Lessee and the lender.

- (c) Notwithstanding the Lessor's option to acquire the Lessee's interest in the Leased Premises, such option shall be subject to any right the Lessee may have under the mortgage or by law to reinstatement after the acceleration, and the right to bring appropriate court action to assert the non-existence of a default or any other defense to acceleration and sale or foreclosure.
- (d) The estate acquired by the Lessor through the exercise of the option shall not merge with any other estate or title held by the Lessor as long as the leasehold interest or any improvements on the Leased Premises, or any interest therein, are mortgaged or otherwise pledged as security for any loan, and the leasehold interest shall remain subject to any valid and subsisting mortgage or other security instrument.

12. RESERVATIONS: Lessee shall use the premises exclusively for residential purposes, except as otherwise agreed to by the parties. Any rights not expressly provided are reserved by the Lessor.

Minerals: The Lessor reserves all rights, as owned by the Lessor, to all mineral rights, including but not limited to oil, gas, or hydrocarbon substances. The Lessor shall not exercise surface entry in connection with reserved mineral rights without prior consent of the Lessee and sureties (as found in 25 CFR 162 ).

Timber: The Lessor reserves all rights, as owned by the Lessor to timber and forest products on the premises.

Water: The Lessor reserves all rights, as owned by the Lessor, to water on the premises, except that which is needed for residential purposes.

13. EFFECTIVE DATE. This Lease and all its terms and provisions shall be binding upon the successors, and assigns of the Lessee and any successor in interest to the Lessor, and shall take effect on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, or upon the date of approval by the Secretary, whichever is later.

14. OBLIGATION TO THE UNITED STATES. It is understood and agreed that while the Leased Premises are in trust or restricted status, all of the Lessee's obligations under this Lease, and the obligation of his, hers (theirs) sureties, are to the United States as well as to the owner of the land.

15. ASSENT NOT WAIVER OF FUTURE BREACH OF COVENANTS. No assent, express or implied, to any breach of any of the Lessee's covenants, shall be deemed to be a waiver of any succeeding breach of any covenants.

16. VIOLATIONS OF Lease. It is understood and agreed that violations of this Lease shall be acted upon in accordance with the regulations in 25 C.F.R. Part 162.

17. CARE OF PREMISES. It is understood and agreed that the Lessee is to keep the premises covered by this lease in good repair. Lessee shall not commit or permit to be committed any waste whatever on said premises and shall not remove or tear down any building or other improvements thereto, but shall keep the same in good repair. Lessee shall not destroy or permit to be destroyed any trees, except with the consent of the Lessor and the approval of the Secretary, and shall not permit the premises to become unsightly. The Lessee will be held financially responsible for all unrepaired damages to buildings, fences, improvements or appearance, except for the usual wear and decay.

**18. FORCE MAJEURE. Whenever under this instrument a time is stated within which or by which original construction, repairs or re-construction of said improvements shall be completed, and if during such period any cause reasonably beyond the Lessee's power to control occurs, the period of delay so caused shall be added to the period allowed herein for the completion of such work.**

19. INSPECTION OF THE PREMISES. The Secretary, lender, applicable Federal Agency, and the Lessor and their authorized representative shall have the rights, at any reasonable times during the term of this lease, and with reasonable notice, to enter upon the leased premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

20. INDEMNIFICATION. Neither the Lessor nor the United States, nor their officers, agents, and employees shall be liable for any loss, damage, or injury of any kind whatsoever to the person or property of the Lessee~~sub~~lessees or any other person whomsoever, caused by any use of the leased premises, or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said premises or from any other cause whatsoever; and Lessee, as a material part of the consideration for this lease, hereby waives on Lessee's behalf all claims against Lessor and/or the United States and agrees to hold Lessor and/or the United States free and harmless from liability for all claims for any loss, damage, or injury arising from the use for the premises by Lessee, together with all costs and expenses in connection therewith.

21. UTILITIES. Neither the Lessor nor the United States shall have any obligation to provide utilities as of the commencement of this Lease. In the event that the Lessee requires utilities, the installation and maintenance thereof shall be the Lessee's sole obligation, provided that such installation shall be subject to the written consent of the Lessor, which the Lessor will not unreasonably withhold. The Lessee shall pay, as they become due, all bills for electricity and other utilities that are furnished to the leased premises.

**22. LATE PAYMENT INTEREST. It is understood and agreed between**

the parties hereto that, if any installment of rental is not paid within 30 days after becoming due, interest will be assessed at the existing prime rate, plus three (3) percent, times the amount owned for the period during which payments are delinquent. Interest will become due and payable from the date such rental becomes due and will run until said rental is paid. The interest rate formula is  $\text{Interest} = (\text{Prime rate} + 3\%) \text{ times } (x) \text{ amount due}$ .

**23. RIGHT OF REMOVAL.** Upon the termination of the lease, the Lessee of a one-unit single family dwelling shall be entitled, within \_\_\_\_\_ days, to remove the dwelling and related structures from the leased premises and relocate such improvements to an alternative site, not located on the leased premises. Any Lessee who exercises such a right shall be required to pay all costs related to the relocation of the dwelling unit. Lessee shall leave the land in good order and condition. All other improvements shall become the property of the Lessor at the expiration of this lease. This paragraph does not apply to Section 248 insured mortgage loans

**24. INSURANCE.** The Lessee agrees, so long as this lease is in effect, to keep buildings and improvements on the leased premises insured against loss or damage by fire with extended coverage endorsements in an amount equal to the full insurable value of the buildings and improvements insured. Said policy is to be made payable to the Bureau of Indian Affairs for the benefit of the Lessor. Said policy or policies shall be deposited with the Secretary and Lessee shall pay all premiums and other charges payable in respect to such insurance and shall deposit with the Secretary the receipt for each premium or other charge as paid or satisfactory evidence thereof. Except, during such time that a mortgage is in effect against this Leasehold interest, that said policy is to be made jointly payable to the Lessee and the Lender, and premium payments provided for per specific requirements of the Lender.

**25. ADDITIONS.** Prior to execution of this Lease, provision (s) number (s) \_\_\_\_\_  
has (have) been added hereto and by reference is (are) made a part hereof.

WITNESS: \_\_\_\_\_, Lessor

\_\_\_\_\_

WITNESS: \_\_\_\_\_

\_\_\_\_\_, Lessee

\_\_\_\_\_

APPROVED:

SECRETARY OF THE INTERIOR

\_\_\_\_\_

BY: \_\_\_\_\_

Date

This lease is approved pursuant to the authority delegated by

\_\_\_\_\_

\_\_\_\_\_  
Approving Official

\_\_\_\_\_  
Date



MODEL TRIBAL LENDING PROCEDURES FOR:  
LIEN PRIORITY, EVICTION AND FORECLOSURE  
AND LEASING

**I. OVERVIEW**

This document highlights roles and responsibilities of the Indian tribe for the participation in mortgage loan guarantee and insurance programs sponsored by the U. S. Department of Housing and Urban Development (HUD), U. S. Department of Agriculture's Rural Housing Service (RHS) and U. S. Department of Veterans Affairs (VA). The Federal Agencies noted have prepared this document as a guide to aide Indian tribes in obtaining the approval of the Agencies for participation in each of their programs.

**a. General.** Due to the unique legal status of Indian trust land

and restricted land, it has been difficult for Native Americans to achieve homeownership utilizing financing provided by private lending institutions. In general, trust land means land in which the title is held in trust by the United States for the benefit of an Indian or Indian tribe, and it is inalienable. Trust lands also include lands to which the title is held by an Indian tribe subject to a restriction against alienation imposed by the United States. Because of the difficulty in obtaining a security interest in individual plots, conventional mortgage lending practices have not traditionally operated in this forum. This has resulted in a reluctance of financial institutions to offer their mortgage loan products where Indian trust land is involved. This same reluctance has also applied to restricted land where the title is held by an individual Indian or tribe and which can only be alienated or encumbered by the owner with the approval of the Secretary of the Interior.

**b. Legal and Administrative Framework.** For tribal members to participate in the federal government sponsored mortgage loan programs, the tribe must demonstrate that a legal and administrative framework exists that is sufficient to protect the interests of the borrower, the lender, and the federal agency which will

guarantee or insure the mortgage loan. To establish this legal and administrative framework, tribes must have adopted foreclosure, eviction, and priority of lien procedures that will apply to these loans whenever the tribal court has legal jurisdiction.

The legal and administrative framework addresses four key procedures: (1) foreclosures, (2) evictions, (3) priority of lien procedures, and (4) leasing procedures for tribal trust land. Attachment 1 provides model tribal mortgage lending ordinances which may be utilized by a tribe or may serve as a guide. Use of this model will be deemed acceptable for program compliance by all of the federal agencies noted above. If a tribe adopts a legal and administrative framework which differs from these model documents, it will be necessary for the tribe to seek approval, in a separate process, from each of the Federal agencies noted.

- c. **Tribal Commitment to Enforcement.** A tribe with tribal court jurisdiction must also demonstrate its support of one (or more) of these programs by notifying at least one of these federal agencies, that the tribe has enacted the required legal procedures and that it will enforce these procedures. (See Paragraph I.a. below.)

## **II. FORECLOSURE AND EVICTION PROCEDURES**

**Foreclosures and evictions will be processed through the legal system having jurisdiction over the mortgage loans. This may include federal, state, local, or tribal courts.**

- a. **Enactment of Tribal Procedures.** A tribe may enact foreclosure and eviction procedures via tribal council resolution or any other recognized legislative action. To be considered valid, these procedures must be legally enforceable.
- b. **Required Provisions.** To preserve tribal autonomy in the governing process, the federal agencies noted above will not prescribe a format or specific wording for foreclosure and eviction procedures. However, all foreclosure

procedures must enable the lender and/or the Federal agency which has made, insured or guaranteed the mortgage loan, to take possession of the property in the event that three or more complete monthly mortgage installments are due and unpaid, or the Borrower has failed to perform any obligation under the Mortgage. All eviction procedures must allow for expedited removal of the delinquent household residents from occupancy.

- c. **Sample Documents.** A tribe that does not currently have foreclosure and eviction procedures may utilize the model language which is attached, or may contact other tribes to obtain procedural options.
- d. **Failure to Enforce.** Each of the Federal Agencies noted above has different authority to take action in the case of a Tribe which does not enforce its established eviction and foreclosure requirements. For information on the action to be taken, contact the appropriate Federal Agency directly.

### III. LIEN PROCEDURES

**Mortgages guaranteed under the following programs must have a first lien position on the property. Those programs are: HUD Section 184, HUD Section 248, and USDA Section 502 Guaranteed. Under the USDA Section 502 Direct program, the loan may be subordinated under certain circumstances (contact the USDA's Rural Housing representative for further information.) enforcement will be processed through the appropriate federal, state, local or tribal system. The lender responsibility is only to verify that the Tribe has adopted the model procedures and is approved by the Federal Agency guaranteeing or insuring the mortgage.**

- a. **Enactment of Tribal Lien Procedures.** To ensure that each direct, guaranteed or insured mortgage holds a first lien position, each tribal government must enact a law that provides either:
  - (1) For the satisfaction of HUD , VA, or USDA direct, guaranteed or insured mortgages before other obligations (except tribal leasehold taxes assessed after the property is mortgaged); or

- (2) That state law shall determine the priority of liens against the property. If a reservation spans two or more states, the state in which the property is located is the applicable state law.
- b. **Format.** The federal agencies noted above will not prescribe a specific format for adopting lien requirements.
- c. **Failure to Enforce.** If any of the Federal Agencies issuing loans, guarantees or insurance within the jurisdiction of an approved tribes determines that the tribe does not enforce adopted lien enforcement or eviction procedures, that Agency will notify the other Federal Agencies of such non-enforcement. Each Federal Agency will take appropriate action in accordance with paragraph III.d., above.
- d. **Recordation.** On tribal trust or other federally restricted land, liens shall be recorded by filing with the Land Titles and Records Office at the BIA and may also be recorded with the tribe in accordance with local ordinances/resolutions if appropriate. Section 248 requires recording with the State (if available). On fee simple land, liens shall be filed with the State or County recording system having jurisdiction over the property.

#### IV. LEASING TRIBAL TRUST LAND

**To receive a loan guarantee/insurance on tribal trust lands, the borrower must establish a leasehold interest in the land on which the home will be located.**

- a. **Leasehold Documents.** Appendix 2 provides a standard lease form that has been approved by the BIA, HUD, USDA and VA for use on tribal trust land. This sample lease form contains certain provisions that are required to be included in leases for trust and restricted land used as collateral for the loan programs administered by these agencies.
- b. **Lease Modifications.** The standard lease form may be modified by the mutual consent of the tribe ~~and~~

borrower. Modifications to the standard lease form are made by rider and require the approval of BIA and the federal agency which is proposed to make, guarantee, or insure the loan. No lease modification may serve to obstruct the right of any of the Federal Agencies or the lender to evict the borrower or foreclose on or sell the property in the event of default.

**c. Parties to the Lease.** The lease must be executed by the tribe (Lessor) and borrower (Lessee) and approved by the Secretary of the Interior prior to issuance of a firm commitment/lender approval.

**d. Leasehold Payments.** The amount of the lease rental is negotiable between the Indian tribe (Lessor) and borrower (Lessee) subject to the approval of the Secretary of the Interior.

**(1)** The lease rental and provisions for increases in the rent will be a consideration of the lender in determining the mortgage amount for which the borrower qualifies.

**(2)** The tribe must notify the lender of lease rental payments and/or taxes. Except for mortgages insured under 248, the lender may require that the lease payments be made through the lender, as is typically done with local property taxes. If the tribe wishes, tribal tax liens resulting from that portion of the unpaid leasehold payments applicable to tribal taxes may be recorded in the state recording system. The tribe may also intervene in any foreclosure proceeding to ask that the taxes be paid.

**e. Lease Transfers and Assignments.** The tribe must approve all transfers or assignments of the leasehold interest, except at foreclosure and as otherwise provided in the lease.

**f. Lease Status at Foreclosure.** The Federal Agency which made, insured or guaranteed the mortgage loan, or the lender may assume title to the leasehold interest without tribal approval of such transfer. However, anyone who subsequently purchases or rents the leasehold property

must be approved by the tribe except as otherwise provided in the lease.

- g. Termination.** The lease may not be terminated while the Federal loan, guarantee or insurance is in effect without the approval of the applicable Federal Agency. Likewise, in the event of foreclosure, the lease will not be subject to any forfeiture or reversion and will not be otherwise subject to termination.

## **V. MORTGAGING ALLOTTED TRUST LANDS**

- a. General.** Unless otherwise approved by the applicable Federal Agency, owners of undivided interests cannot mortgage trust property.
- b. Mortgages on Allotted Trust Land.** The allottee or owner of the individual trust may choose to mortgage the land and consequently risk permanent loss of the land in the case of default and subsequent foreclosure. Allottees or owners of an individual trust are permitted to mortgage properties with the approval of BIA. If foreclosure occurs on mortgaged allotted trust land, the title to the land is removed from trust status. In general, Deeds of Trust must be approved by the BIA, and should include a 483b rider. The HUD Section 248 program is not available on allotted trust lands.
- c. Fractionated Ownership.** It is common for allotted trust lands to be owned by several individuals. If a prospective borrower proposes to use trust or restricted land in which he or she owns an interest, he or she must acquire a lease from all of the co-owners (this action may require the individual to pay a rental to the co-owners) and approval of the lease by the Secretary of the Interior.

## VI. TRIBAL APPLICATION AND APPROVAL

**Before a lender may process a mortgage loan application where a guarantee/insurance is proposed under a program sponsored by either HUD, USDA or VA, or a Federal Agency may process a direct loan application, a tribe with tribal court jurisdiction over that property must provide the applicable Federal Agency with a copy of its foreclosure, eviction and priority of lien ordinances and its lease. If an Agency approves the tribe's ordinances and lease, it will execute a Memorandum of Understanding (MOU) with the tribe (Attachment 3). A copy of this MOU will be furnished to the other agencies. If a tribe's documents do not follow the basic intent and requirements of the model documents which are attached to this guide, the tribe will need to seek approval of HUD, VA and USDA individually, in order to participate in each of their mortgage loan programs.**

- a. Notice Content.** Appendix 4 includes a checklist of those items necessary in order to receive Agency approval. To obtain approval, the tribe's submission must provide evidence that it:
- (1)** Will ensure that the Federal Agencies and private lenders have access to tribal lands for the purpose of servicing and evaluating properties securing direct, guaranteed or insured mortgages.
  - (2)** Has enacted foreclosure procedures.
  - (3)** Has enacted eviction procedures.
  - (4)** Understands that if eviction and foreclosure procedures are not enforced, all of the Departments noted may cease making, guaranteeing or insuring new loans within their area of jurisdiction pursuant to paragraph II.d.
  - (5)** Has adopted procedures giving the Federal Agency first lien priority (where applicable) or otherwise ensuring that the direct, guaranteed, or insured loan will be satisfied before all other property debts (excepting tribal taxes); or has adopted legislation

stating that it will abide by applicable state or local laws with respect to lien priority.

**b. Notification Process:**

- (1)** Tribe sends to either HUD, USDA or VA, the items noted in the checklist at Appendix 4.
- (2)** It is not necessary for a tribe to obtain approval from the applicable Federal Agency for each new direct, guaranteed or insured loan once a tribe has executed a Memorandum of Understanding (MOU) with that Federal Agency. Any Federal Agency initially approving a tribe will provide copies of the executed MOU to the other Federal Agencies. The tribe's executed MOU will be kept on file by each of the Agencies.
- (3)** Upon receipt of a borrower application, lenders may call the appropriate Federal Agency to determine whether a given tribe is ready to participate in the loan program(s). The lender may also ask the borrower to submit a land status form which will provide the lender and Department with confirmation of the land status (tribal trust, allotted trust or fee simple within the tribe's jurisdiction).



## Model Tribal Mortgage Lending Code

### A. LienPriority

## B. Recording of Mortgage Loan Documents

- Upon completion of the above-cited endorsements, the Tribal Recording Clerk shall make a true and correct copy of the mortgage or other document and shall certify the copy as follows:

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A-97

I certify that this is a true and correct copy of a document received for recording this date.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

The Tribal Recording clerk shall maintain the copy in the records of the recording system and shall return the original of the mortgage loan and other document to the person or entity that presented the same for recording.

- (3) The Tribal Recording Clerk shall also maintain a log of each mortgage loan or other document recorded in which there shall be entered:
- (a) The name(s) of the Borrower/Mortgagor of each mortgage loan, identified as such;
  - (b) The name(s) of the Lender/Mortgagee of each mortgage loan, identified as such;
  - (c) The name(s) of the grantor(s), grantee(s) or other designation of each party named in any other documents filed or recorded;
  - (d) The date and time of the receipt;
  - (e) The filing number assigned by the Tribal Recording Clerk; and
  - (f) The name of the Tribal Recording Clerk or designee receiving the mortgage or document.
- (4) The certified copies of the mortgage loan and other documents and the log maintained by the Tribal Recording Clerk shall be made available for public inspection and copying. Rules for copying shall be established and disseminated by the Tribal Recording Clerk.
- (5) All mortgages will be recorded with the BIA in addition to any Tribal recording provisions.

*Commentary: The federal agencies noted above recognize that Indian tribes are required to have mortgages filed with the Bureau of Indian Affairs (BIA). It is optional whether or not the tribe houses its Recording department within a "Tribal Real Estate" program. The tribe is free to place the Recording function in any tribal department it wishes.*

### C. Foreclosure Procedures

- (1) A Borrower/Mortgagor shall be considered to be in default when he or she is thirty (30) days past due on his or her mortgage payment(s) or is in violation of any covenant under the mortgage for more than 30 days the Lender/Mortgagee (i.e. the 31st day from the payment due date).
- (2) When a Borrower/Mortgagor is thirty days past due on his or her mortgage and before any foreclosure action or activity is initiated, the Lender/Mortgagee shall complete the following:
  - (a) Make a reasonable effort to arrange a face-to-face interview with the Borrower/Mortgagor. This shall include at least one trip to meet with the Borrower/Mortgagor at the mortgaged property.
  - (b) Lender/Mortgagee shall document that it has made at least one phone call to the Borrower/Mortgagor (or the nearest phone as designed by the Borrower/Mortgagor, able to receive and relay messages to the Borrower/Mortgagor) for the purpose of trying to arrange a face-to-face interview.
- (3) Lender/Mortgagee may appoint an agent to perform the services of arranging and conducting the face-to-face interview specified in this action.
- (4) When the Borrower/Mortgagor is past due on three installment payments and at least ten (10) days before initiating a foreclosure action in Tribal Court, the Lender shall advise the Borrower/Mortgagor in writing by mail or by posting prominently on the unit, with a copy provided to the Tribe, as follows:
  - (a) Advise the Borrower/Mortgagor that information regarding the loan and default/delinquency will be given to credit bureaus.
  - (b) Advise the Borrower/Mortgagor of homeownership counseling opportunities/programs available through the Lender or otherwise.
  - (c) Advise the Borrower/Mortgagor of other available assistance regarding the mortgage/default.
  - (d) In addition to the preceding notification requirements, the Lender/Mortgagee shall complete the following additional notice requirements: (i) notify the Borrower/Mortgagor that if the Leasehold Mortgage remains past due on three installment payments, the Lender/Mortgagee may ask the applicable governmental agency to accept assignment of the Leasehold Mortgage if this is an option of the governmental program; (ii) notify the Borrower/Mortgagor of the qualifications for forbearance relief from the Lender/Mortgagee, if any, and that forbearance relief may be available from the government; and (iii) provide the Borrower/Mortgagor with names and addresses of government officials to whom further communications may be addressed, if any.

- (5) If a Borrower/Mortgagor is past due on three or more installment payments and the Lender/Mortgagee has complied with the procedures set forth in the first part of this Section, the Lender/Mortgagee may commence a foreclosure proceeding in the Tribal Court by filing a verified complaint as set forth in Section D. of this Code.

*Commentary: The proceeding Section C sets forth foreclosure procedures designed to meet all of the foreclosure procedure requirements currently established under the mortgage loan programs sponsored by the U.S. Departments of Housing and Urban Development, Agriculture and Veterans Affairs (collectively referred to as Federal Agency). However, under HUD's Section 248 mortgage insurance program, lenders have the option of assigning the mortgage to HUD rather than initiating foreclosure. If the lender exercises its option to assign the mortgage to HUD, it must comply with the requirements of the regulations at 24 CFR part 203.*

#### **D. Foreclosure Complaint and Summons**

- (1) The verified complaint in a mortgage foreclosure proceeding shall contain the following:
- (a) The name of the Borrower/Mortgagor and each person or entity claiming through the Borrower/Mortgagor subsequent to the recording of the mortgage loan, including each Subordinate Lienholder (except the Tribe with respect to a claim for a tribal leasehold), as a defendant;
  - (b) A description of the property subject to the mortgage loan;
  - (c) A concise statement of the facts concerning the execution of the mortgage loan and in the case of a Leasehold Mortgage the lease; the facts concerning the recording of the mortgage loan or the Leasehold Mortgage; the facts concerning the alleged default(s) of the Borrowers/Mortgagor; and such other facts as may be necessary to constitute a cause of action;
  - (d) True and correct copies of each promissory note, mortgage, deed of trust or other recorded real property security instrument (each a "security instrument") and any other documents relating to the property and if a Leasehold Mortgage, a copy of the lease and any assignment of any of these documents; and
  - (e) Any applicable allegations concerning relevant requirements and conditions prescribed in (i) federal statutes and regulations (ii) tribal codes, ordinances and regulations; and/or (iii) provisions of the promissory note, security instrument and if a Leasehold Mortgage, the lease.
- (2) The complaint shall be verified by the Tribal Court Clerk along with a summons specifying a date and time of appearance for the Defendant(s).

E. Service of Process and Procedures Any foreclosure complaint must be in writing, and must be delivered to the Borrower/Mortgagor in the following manner:

- (1) Delivery must be made by an adult person and is effective when it is:
  - (a) Personally delivered to a Borrower/Mortgagor with a copy sent by mail, or
  - (b) Personally delivered to an adult living in the property with a copy sent by mail, or
  - (c) Personally delivered to an adult agent or employee of the Borrower/Mortgagor with a copy sent by mail.
- (2) If the notice cannot be given by means of personal delivery, or the Borrower/Mortgagor cannot be found, the notice may be delivered by means of:
  - (a) Certified mail, return receipt requested, at the last known address of the Borrower/Mortgagor, or
  - (b) Securely taping a copy of the notice to the main entry door of the property in such a manner that it is not likely to blow away, and by posting a copy of the notice in some public place near the premises, including a tribal office, public store, or other commonly-frequent place and by sending a copy first class mail, postage prepaid, addressed to the Borrower/Mortgagor at the premises.
- (3) The person giving notice must keep a copy of the notice and proof of service in accordance with this section, by affidavit or other manner recognized by law.

F. Cure of Default

Prior to the entry of a judgment of foreclosure, any Borrower/Mortgagor or a SubordinateLienholder may cure the default(s) under the Mortgage by making a full payment of the delinquency to the Lender/Mortgagee and all reasonable legal and Court costs incurred in foreclosing on the property. Any subordinate Lienholder who has cured a default shall thereafter have included in its lien the amount of all payments made by such SubordinateLienholder to cure the default(s), plus interest on such amounts at the rate stated in the note for the mortgage. There shall be no right of redemption in any Leasehold Mortgage Foreclosure proceeding.

*Commentary: This Section F. does not allow for a "right of redemption." The "right of redemption" if provided in a Foreclosure Code allows a Borrower/Mortgagor to redeem (purchase) his/her foreclosed property after it has been sold at a foreclosure sale. Most state foreclosure laws have very strict time limits on how long a Borrower/Mortgagor has to redeem his/her property after a foreclosure sale, when the right to redeem will be allowed, and notice requirements that must be given the Borrower/Mortgagor following the sale of his/her foreclosed property. Because the right of*

*redemption can be very specialized the drafters of this model Code will leave to the discretion of the tribe whether or not to incorporate a “right of redemption” and under what terms. If a “right of redemption” is included, it will be necessary for the tribe to seek approval in a separate process from each of the Federal Agencies noted.*

#### G. Judgment and Remedy

This matter shall be heard and decided by the Tribal Court in a prompt and reasonable time period not to exceed sixty (60) days from the date of service of the Complaint on the Borrower/Mortgagor. If the alleged default has not been cured at the time of trial and the Tribal Court finds for the Lender/Mortgagee, the Tribal Court shall enter judgment:

- (1) Foreclosing the interest of the Borrower/Mortgagor and each other defendant, including Subordinate Lienholder, in the mortgaged property and
- (2) Granting title to the property to the Lender/Mortgagee or the Lender’s Designated Assignee; in the case of a Leasehold Mortgage, the Lease and the Leasehold Estate will be assigned to the Lender/Mortgagee or the Lender’s Designated Assignee, subject to the following provisions
  - (a) The lender shall give the Tribe the right of first refusal on any acceptable offer to purchase the Lease and the Lessee’s leasehold interest in the property described in the lease which is subsequently obtained by the Lender or Lender’s Designated Assignee.
  - (b) The Lender or Lender’s Designated Assignee may only transfer, sell or assign the Lease and Lessee’s leasehold interest in the property described in the Lease to a Tribal member, the Tribe, or the Tribal Housing Authority;
  - (c) The mortgagee has the right to convey the leasehold interest to the Secretary of HUD without providing the right of first refusal to the Tribe for Section 248.

## H. Foreclosure Evictions

Foreclosure evictions shall be handled according to the general eviction process set forth below.

(1) Jurisdiction The provisions of this section H. shall apply to all persons and property subject to the governing authority of the Tribe as established by the Tribal Constitution, Tribal Code, or applicable federal law.

(2) Unlawful Detainer A Lessee, Sublessee, or other occupant of a Leasehold Estate subject to a Leasehold Mortgage shall be guilty of unlawful detainer if such person shall continue in occupancy of such Leasehold Estate without the requirement of any notice by the Lessor, after such person's Leasehold Estate has been foreclosed in a Leasehold Mortgage foreclosure proceeding in the Tribal Court;

(3) Complaint and Summons The lender or Federal Agency (which made, guaranteed or insured the mortgage loan) as appropriate, shall commence an action for unlawful detainer by filing with the Tribal Court, in writing, the following documents:

(a) A complaint, signed by the lender or Federal Agency, or an agent or attorney on their behalf:

- (i) Citing facts alleging jurisdiction of the Tribal Court;
- (ii) Naming as defendants the mortgagors and any other record owner (including Sublessees and subordinated holders), of which the complainant has record notice (except the Tribe with respect to a claim for a Tribal tax on the Leasehold Estate subject to the Leasehold Mortgage);

(iii) Describing the Leasehold Estate subject to the Leasehold Mortgage;

(iv) Stating the facts concerning (1) the execution of the lease and the Leasehold Mortgage; (2) the recording of the Leasehold Mortgage; and (3) the facts upon which he or she seeks to recover;

(v) Stating any claim for damages or compensation due from the persons to be evicted; and

(vi) Otherwise satisfying the requirements of the Tribal Court.

(b) A copy of the summons, issued in accordance with established Tribal Court rules and procedures, requiring the defendants to file a response to the complaint by the date specified in the summons. The deadline specified in the summons for filing a response shall be no less than 6 nor more than 30 days from the date of service of the summons and complaint. The summons shall notify the defendants

that judgment will be taken against them in accordance with the terms of the complaint unless they file a response with the court by the date specified in the summons.

(4) Service of Summons and ComplaintA copy of the summons and complaint

shall be served upon the defendants in the manner provided by the Tribal Court rules for service of process in civil matters. In the absence of such Tribal Court rules, the summons and complaint shall be served by one of the following two methods.

(5) Procedures for Service of NoticeNotices required or authorized in the immediately preceding section shall be given in writing either by:

- (a) delivering a copy personally to the Borrower/ Mortgagor or to any other occupant under color of law, or to any adult residing on the Leasehold Estate and, if applicable, to a Sublessee; or
- (b) posting said notice in a conspicuous place near the entrance to said Leasehold Estate, and sending an additional copy to the Lessee or to any other occupant under color of law, and, if applicable, to the Sublessee, by certified mail, return receipt requested, properly addressed, postage paid.

Proof of service may be made by affidavit of any adult person stating that he has complied with the requirements of one of the above methods of service.

(6) Power of the Tribal CourtThe Tribal Court shall enter an Order of Repossession if:

- (a) Notice of suit is given by service of summons and complaint in accordance with the procedures provided herein; and
- (b) The Tribal Court shall find during pre-trial proceedings or at trial that the Lessee, Sublessee, or other occupant under color of law of the Leasehold Estate subject to the Leasehold Mortgage is guilty of an act of unlawful detainer.

Upon issuance of an Order of Repossession, the Tribal Court shall have the authority to enter a judgment against the defendants for the following, as appropriate: (1) back rent, unpaid utilities, and any charges due the Tribe, Tribal Housing Authority, other public Housing Authority, Sublessor under any sublease or other written agreement (except for a Leasehold Mortgage); (2) any and all amounts secured by the Leasehold Mortgage that are due the lender (or Federal Agency); and (3) damages to the property caused by the defendants, other than ordinary wear and tear. The Tribal Court shall have the authority to award to the prevailing party its costs and reasonable attorney's fees in bringing suit.



(7) Enforcement. Upon issuance of an Order of Repossession by the Tribal Court, Tribal law enforcement officers shall help plaintiffs enforce same by evicting the defendants and their property from the unlawfully occupied Leasehold Estate. In all cases involving the lender or Federal Agency, the Order of Repossession shall be enforced no later than 45 days after a pre-trial proceeding or trial in which the Tribal Court finds against defendants, subject to Paragraph H7 below, and provided, that no party exercised the right to cure a default or right of first refusal as described in Paragraphs F and G.

(8) Continuances in Cases Involving the Lender or Federal Agency (which originally made, insured or guaranteed) the mortgage loan. Except by agreement of all parties, there shall be no continuances in cases involving the lender or Federal Agency that will interfere with the requirement that the Order of Repossession be enforced not later than 45 days after a pre-trial proceeding or trial in which the Tribal Court finds against defendants, subject to the sound discretion of the Court.

#### I. No Merger of Estates

There shall be no merger of estates by reason of the execution of a Lease or a Leasehold Mortgage or the assignment or assumption of the same, including an assignment adjudged by the Tribal Court, or by operation of law, except as such merger may arise upon satisfaction of the Leasehold Mortgage.

#### J. Certified Mailing to Tribe

In any foreclosure proceedings on a Leasehold Mortgage where the Tribe is not named as a defendant, a copy of the summons and complaint shall be mailed to the Tribe by certified mail, return receipt requested, within five (5) days after the issuance of the summons. If the lessor is not the tribe, this notice will also be mailed to the lessor at the same time the notice is mailed to the tribe. If the location of the lessor cannot be ascertained after reasonable inquiry, a copy of the summons and complaint shall be mailed to the lessor in care of the Superintendent of the applicable agency of the Bureau of Indian Affairs.

#### K. Intervention

The Tribe or any Lessor may petition the Tribal Court to intervene in any Lease or Leasehold Mortgage foreclosure proceeding under this Code. Neither the filing of a petition for intervention by the Tribe, nor the granting of such petition by the Tribal Court shall operate as a waiver of the sovereign immunity of the Tribe, except as may be expressly authorized by the Tribe.

L. Appeals

Appeals under this Code shall be handled in accordance with the general tribal appellate provisions.

CERTIFICATION

The foregoing \_\_\_\_\_ (name of Tribe) Leasehold Mortgaging Code was enacted by the Tribal Council of the \_\_\_\_\_ Tribe on the \_\_\_\_ day of \_\_\_\_\_, 2000, by a vote of \_\_\_\_ for, \_\_\_\_ opposed, and \_\_\_\_ abstaining, at a dully called meeting at which a quorum of the Tribal Council was present.

\_\_\_\_\_  
Tribal President

ATTEST:

\_\_\_\_\_  
Tribal Secretary

CERTIFICATION

\_\_\_\_\_ Tribe    )  
                          ) ss.  
                          )

I certify that this is a true and correct copy of a document received for recording this date.

Given under my hand and seal this \_\_\_\_ day of \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

## **Attachment 4**

### **Checklist for Tribal Approval for Participation in Mortgage Loan Programs Sponsored by the U.S. Departments of Housing and Urban Development, Agriculture and Veterans Affairs.**

1. Evidence that the tribe has enacted legally binding and effective foreclosure procedures and will enforce those procedures upon notice of default from a lender and/or Agency noted above.
2. Evidence that the tribe has enacted legally binding and effective eviction procedures and will enforce those procedures upon notice of default from a lender and/or an Agency noted above.
3. Evidence that the tribe has adopted procedures ensuring that the Federally guaranteed or insured loan will always have first lien priority (if applicable) and will be satisfied before all other property debts (excepting tribal taxes) OR has adopted legislation requiring the tribe to follow state or local priority of lien procedures.
4. A copy of the tribe's lease for use on residential land.
5. Submission of an affirmation signed by the tribe stating that the tribe understands the importance of maintaining and enforcing these procedures.
6. Submission of an affirmation signed by the tribe stating that the tribe agrees that it will permit HUD, USDA and VA and/or the lender or their agents to access mortgaged properties for the purpose of evaluating and servicing loan-related items.

## APPENDIX I

### **Memorandum of Understanding for Participation in Federal Government Loan Programs**

#### MEMORANDUM OF UNDERSTANDING

BETWEEN

THE \_\_\_\_\_ NATION

AND

**{fill in the name of the reviewing/approving Agency}**

Whereas, the Secretaries of Housing and Urban Development (HUD), Veterans Affairs (VA) and Agriculture (USDA) are authorized to make, insure and/or guarantee loans to American Indian borrowers for the purchase of one-to-four family residences located on certain Indian lands (as defined in each Federal Agency's authorizing statute), and

Whereas the Federal Agencies require, as a condition of making, insuring or guaranteeing these mortgages, that the tribal organization which has jurisdiction over the borrower enter into a Memorandum of Understanding with the Departments with respect to such loans, and

Whereas, the signature on this Memorandum of Understanding of any one of the Secretaries for the Department of HUD, VA, or USDA, is deemed to be acceptable to each of the other Departments per the Memorandum of Understanding between those Federal Agencies dated \_\_\_\_\_.

Now therefore, in consideration of the premises and other good and valuable consideration, the parties hereto do agree and establish as follows:

#### 1. DEFINITIONS

American Indian or Native American shall refer to the borrower/mortgagor or Lessee as defined within each Agency's authorizing statute. Depending upon the authorizing statute, this may mean a member of a federally recognized tribe (Native American, Indian, Alaska Native individual or family), the tribe, a

Tribally Designated Housing Entity (TDHE) or Indian Housing Authority (IHA).

Borrower shall mean a federally recognized Tribe, Tribally Designated Housing Entity (TDHE), Indian Housing Authorities (IHA) or any American Indian, Native American(s), Indian or Alaska Native who has executed a Mortgage as defined in this document, or any heir(s) successor(s), executor(s), administrator(s) or assign(s) of the Tribe, TDHE, IHA or such American Indian, Native American(s), Indian or Alaska Native as may be eligible to participate in a federally sponsored loan program as defined in each Federal Agency's authorizing statute. Eviction the legal process by which lessees in violation of their lease are removed from occupancy of a given residence.

Federal Agency shall refer to the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Veterans Affairs (VA) and the U.S. Department of Agriculture (USDA).

Federally sponsored loan program refers to the loan programs, sponsored by HUD, VA and USDA whose purpose is to provide homeownership opportunities to Native Americans, American Indians or Alaska Natives on certain Indian lands as defined within each of those Federal Agency's authorizing statutes.

Leasehold interest is the name given to the interest conveyed by the tribe to the borrower under the lease. It consists of the right to the quiet enjoyment of the leased premises for the term of the lease, subject to the requirements of the lease.

Lender shall refer to any institution that the specific Federal Agency has approved to originate or service mortgages made, insured or guaranteed under its programs. The term "lender" also includes any of the lender's successors or assigns of the lender's right, title to, or interest in, the Mortgage, including any subsequent noteholder and mortgagee and, without the consent from the tribe, any secondary mortgage market investor. In some cases, the lender may be the appropriate Federal Agency which is sponsoring a direct loan program.

Mortgage shall mean a mortgage loan made to an eligible borrower for the purchase or refinance of the borrower's real property interest (which may be a leasehold interest) in the trust land, restricted land or fee simple land, as applicable, and made in accordance with a Federally sponsored loan program and complying with the terms and conditions of the lender's mortgage program. The mortgage loan shall be either a first lien or a second lien, in accordance with the Federally sponsored loan program requirements.

Secretary shall mean the Secretary of the U. S. Department of Housing and Urban Development (HUD) or the Secretary of the Department of Veterans Affairs (VA) or the Secretary of the U.S. Department of Agriculture (USDA).

Tribes shall refer to any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975. For the purpose of this specific Memorandum of Understanding, Tribe refers to the \_\_\_\_\_ Indian Nation, a federally recognized tribe, of the \_\_\_\_\_ Indian Reservation as defined in the Tribal constitution, ordinance or other enabling document.

## 2. AGREEMENT

(a) That the Department of HUD, VA and/or USDA, will make, insure and/or guarantee mortgages available to qualified American Indian borrowers for the purchase, construction or rehabilitation of homes on Indian lands or refinances of such mortgages to the extent funds are available and subject to such terms and conditions as may be established by the Secretary of the applicable Federal Agency.

(b) That the \_\_\_\_\_ Tribe has established standards and procedures that apply to the conveyance of a leasehold interest in real property by an American Indian borrower/mortgagor to a lender, Federal Agency or their assignee as security for the loan, including procedures for foreclosing the interest, eviction and procedures for resale of the lot or the dwelling (or both) purchased, constructed, rehabilitated or refinanced using the proceeds of the loan. It is agreed that for the purpose of foreclosure and eviction actions, the court of jurisdiction is ( ☐ ) the State of \_\_\_\_\_, or ( ☐ ) the Tribal court, or ( ☐ ) the Federal Court.

(c) That each American Indian who is under the jurisdiction of the Indian tribe and to whom a lender and/or Federal Agency makes direct, insures or guarantees a loan, holds, possesses or will obtain a leasehold or other acceptable interest in a lot that is located on Indian land and will purchase, construct, rehabilitate or refinance a dwelling on that lot with the proceeds of the loan

(d) That each such American Indian will convey the above described interest to the lender and its assignees as specified in the borrower/mortgagor's loan documents, by an appropriate instrument, as security for the loan made pursuant to that Federal Agency's authorizing statute.

(e) That the tribe and each borrower/mortgagor who obtains a loan from a lender or Federal Agency under this agreement will permit the lender and/or the Federal Agency, its agents and employees to enter upon the land of the tribe and the borrower/mortgagor for the purpose of carrying out such actions as the lender and/or Secretary determines are necessary to evaluate the advisability of the proposed uses of the proceeds of the loan and to service the mortgage according to the applicable Agency's requirements.

(f) With respect to any leasehold estate financed by a loan, the tribe, as lessor, agrees that it shall not attempt to cancel, modify, amend, terminate, surrender or forfeit such a leasehold estate without the prior written consent by the Lender and the Secretary of the Federal Agency that has made direct, insured or guaranteed the loan, as long as such a loan remains outstanding. With regard to any loan submitted to HUD, VA or USDA for guarantee or insurance, the authorizing Federal Agency shall have the same rights as the lender with regard to that loan and the security. No action with regard to the loan or security that requires consent of the lender shall be taken unless the Federal Agency also consents, so long as the guarantee or insurance remains in effect or the Federal Agency has an interest in the security.

(g) The tribe will to the maximum extent possible, assist the lender and the Federal Agency in its efforts to manage this program in a prudent and cost-effective manner. This will include assisting the lender or Federal Agency in finding qualified substitute purchasers if the initial borrower/mortgagor is unable to fulfill his or her obligations under the law. This may include carrying out evictions, assuring that mortgages and other legal instruments can be properly recorded and otherwise assuring that the program is operated in a responsible and prudent manner.



In Witness whereof, the parties hereto have signed this agreement as follows.

\_\_\_\_\_  
**{fill in name of the reviewing/approving Agency}** DATE \_\_\_\_\_

\_\_\_\_\_  
XXXXXXXXXXXXXXXXXXXX  
XXXXXXX Tribe DATE \_\_\_\_\_

Does the above named Tribe have constitutional authority to sign this  
Memorandum of Understanding without approval of the US Department of  
the Interior's Bureau of Indian Affairs?

\_\_\_\_ Yes                      \_\_\_\_ No

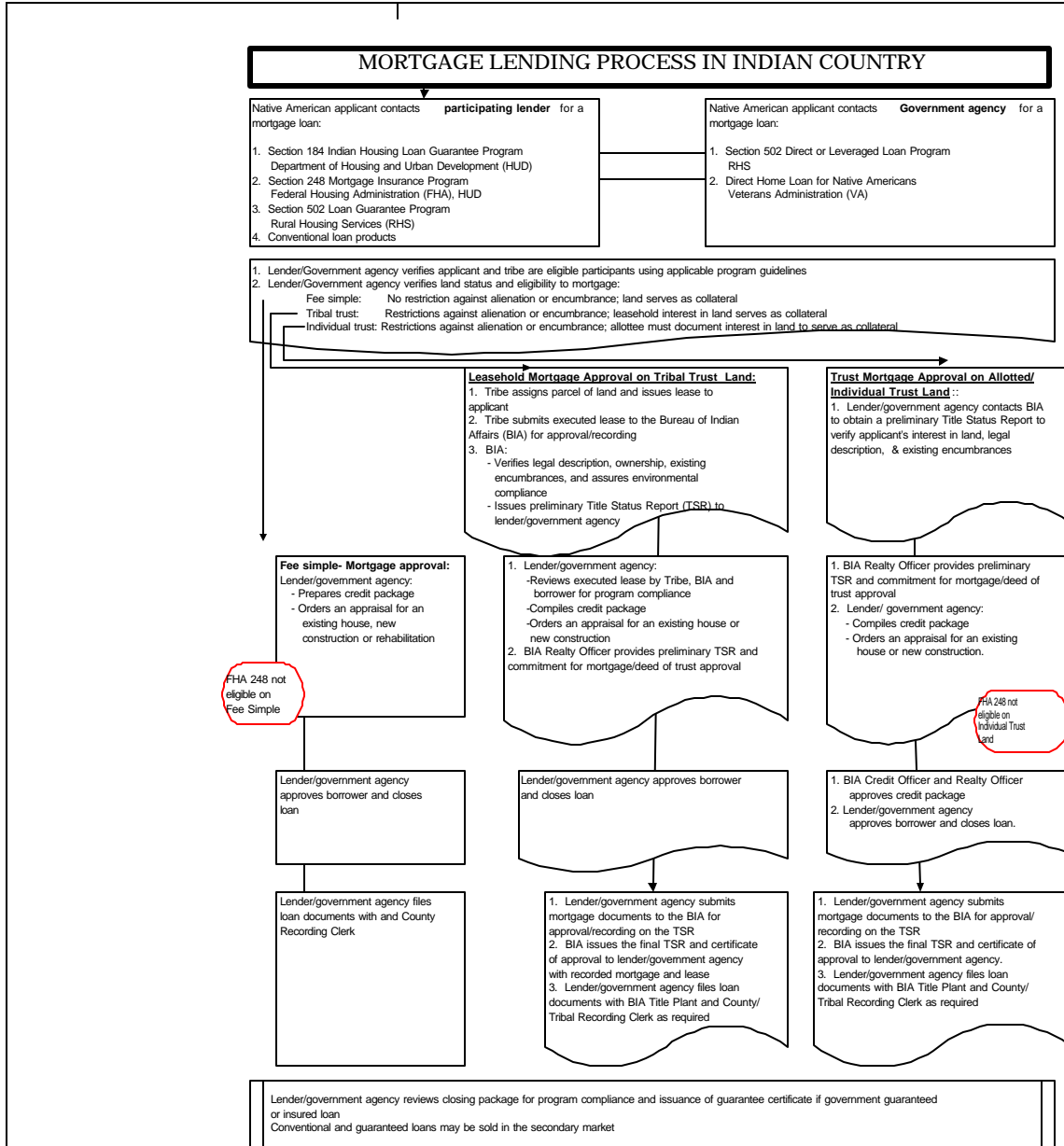
If no, below is the approval of the Bureau of Indian Affairs.

\_\_\_\_\_  
BIA Approving Official DATE \_\_\_\_\_



## APPENDIX J

## Mortgage Process Flow Chart





## APPENDIX K

### **Private Sector Products and Programs**

This appendix summarizes success stories involving initiatives with tribes creating Native-owned banks, lenders, mortgage insurance companies, bond financing, low-income housing tax credit projects, leveraging NAHASDA funds, leveraging tribal funds or gaming proceeds, the Title VI program, secondary market investors and the Federal Home Loan Banks.

#### **Native-Owned Banks**

According to First Nations Development Institute, as of March 1999, there are currently ten banks either owned by tribes or by individuals enrolled in federally recognized tribes. One of the first was the Blackfeet National Bank chartered in Montana in 1987. The Blackfeet tribe owns 94 percent of the bank, which makes agricultural, commercial, real estate, and consumer loans. The bank has originated several Section 184 loans.

In June of 1998, the North American Native Bankers Association (NANBA) was formed to strengthen and increase the number of Indian-owned financial institutions in the United States and Canada. It is governed by a ten-member board of directors who are CEOs or otherwise represent Indian-owned institutions. Since its inception, NANBA has completed two feasibility analyses for bank charter applications and is working with several tribes.

#### **Lender Initiatives**

Several banks, thrifts, and mortgage companies have invested staff time and dollars in Indian Country initiatives over the last few years. The following list provides examples of these programs, but is not exhaustive of the many activities underway across the country. Please note that the inclusion of information on any specific lender or product does not constitute an endorsement by the task force.

#### **Associated Bank of Green Bay**

Associated Bank Green Bay in Green Bay, Wisconsin has been working with the Oneida Tribe of Indians since the early 1980's to provide mortgage guarantee and consumer loan guarantee programs for their tribal members, and a direct deposit consumer banking program with the Oneida Tribe. The mortgage guarantee and direct deposit programs are currently still being offered in cooperation with the Oneida Tribe. Through the mortgage program, the bank has made about 40 loans to

members of the Tribe. The bank provides the first mortgage and the tribe provides the second. The bank holds the loans in portfolio and also does homeownership seminars for the Tribe.

Recently, its banking offices in Shawano, Wisconsin have been working with the Menominee Tribe of Indians to implement a mortgage guarantee program. This program is geared towards residential and commercial development of housing and housing projects. In addition, the bank is working with Fannie Mae and PMI private mortgage insurance company on the Native American Conventional Lending Initiative (NACLI) program to offer fixed rate loans on lease-held properties. The program includes purchasing a new home or construction of a home and even refinance programs for tribal members.

### **Bank of America**

In 1998, as part of a merger with NationsBank, the new Bank of America announced a 10-year \$350 billion community development initiative. At least ten billion dollars of this was further targeted for rural areas, to include Indian Country.

BankAmerica Mortgage teamed up with the Northern Circle Housing Authority in California to originate affordable 30-year fixed rate mortgages for the Dry Creek and Stewarts Point tribes on fee simple land using the Neighborhood Advantage Credit Flex home mortgage product. In order to qualify for the program a participant's income cannot exceed 80 percent of the median income range for Sonoma County. The program was designed for people who do not have traditional credit history or an established credit score. As an alternative, prospective borrowers can provide proof that their rent has been paid on time for at least 12 months. Another factor that can be used in assessing the applicant's creditworthiness is proof that utilities have been paid in a timely manner. Seventy five percent of the loan amount will be financed by the bank. The remaining 25 percent will come from the housing authority's Alternative Finance Second Program. The housing authority has contracted with Consumer Credit Counseling Service of America to provide personal finance counseling.

### **Bank One**

Bank One offers the HUD Section 184 loan program to tribal members throughout its 15-State area. The bank has a long history of commercial lending in Indian Country, particularly with tribes in the Southwest and is planning to expand its initiatives in the mortgage area.

Bank One was instrumental in the packaging of a first of its kind bond assisted project with the White Mountain Apache Housing Authority in White River, Arizona (described below). The bank has begun to work with the National American Indian

Housing Council to train tribes on how to replicate this bond initiative. They were also major players in training on mortgage lending to five tribes in Michigan in late 1999.

### **First Americans Mortgage Corporation (First Americans)**

A subsidiary of AmeriResource Technologies Inc, Lenoxa, Kansas, First Americans has been making loans to tribal members since 1995. As a correspondent lender for FT Mortgage Company, First Americans has been partnering with PMI, Washington Mutual Bank, and Freddie Mac to provide homeownership opportunities to members of four tribes in Oklahoma (see description of partnership below)

First Americans hires local tribal members to package the loans and then sells them to Freddie Mac or Washington Mutual Bank (in the case of existing homes). PMI provides the mortgage insurance. In some cases, another subsidiary of AmeriResource Technologies does the construction.

### **First Heritage Bank**

First Heritage Bank in Marysville, Washington has made business, consumer, and construction loans to the Tulalip Tribe in Washington and/or tribal members for many years, even before the tribe had the requisite legal requirements in place. It is a \$75 million institution with five branches that has depository relationship with members of the tribe. Five percent of First Heritage Stock is owned by the Tulalip Tribe. Two tribal members are on staff and the chairman of the tribe is on the board of directors of the bank. First Heritage is about to begin making loans to members of the Uspukit Tribe, also in Washington.

### **First Security Bank of New Mexico**

First Security Bank in Albuquerque, New Mexico has been an active lender through the Section 184 and 248 programs on the Pueblos in New Mexico. A staff member has provided comprehensive training to several Pueblos on the rebuying process.

### **National Bank of Alaska**

National Bank of Alaska (NBA) has originated 97 HUD Section 184 loans for a total of \$14,301,276. In addition, they purchased the servicing rights of another 52 loans for a total of \$7,769,572. As of the end of March, the bank had 149 loans on its books with an origination value of \$22,160,848.

The bank has done single close construction loans in Bethel; purchase renovation single close in Kotzebue; regular purchase loans from Barrow to Kotchikan. Presently,

the bank has 13 loans in process. These loans are to assist families in Barrow, Bethel, Nome, and Dillingham. They are for either straight purchase of existing or new homes and new construction single close. None of these locations are accessible by road. Over the years, the bank has made Section 184 loans on St. Lawrence Island, St. Paul Island, and Unalakleet.

### **Security First Bank**

This bank, based in Rushville, Nebraska, has for the past 2 years been operating a mobile bank on the Pine Ridge Reservation in South Dakota. It travels to four communities on the reservation and offer 10- to 15-year loans for mobile and manufactured homes.

### **Suburban Mortgage**

Suburban Mortgage based in Albuquerque, New Mexico is financing conventional home loans on the Navajo reservation through the Fannie Mae pilot program. Families are being counseled by the Navajo Partnership for Housing, Inc (NPH). Recently, the lender entered into an agreement with NPH to package loans on the Navajo reservation. They expect to close approximately 18 loans within the next several months. In addition, Suburban Mortgage has financed several HUD Section 248 loans on Pueblo reservations in New Mexico.

### **Washington Mutual Bank**

Washington Mutual based in Seattle, Washington has been making loans in Indian Country for several years. It has been making FHA Section 248 loans since the early 1990s. In addition to this insured product, it offers a conventional loan program on individual trust land. Two tribes in its service area are eligible to participate and one has. Through September 30, 1999, it made 11 loans on trust land (248 and portfolio) for a total of 51 trust loans overall. It also offers consumer loans for manufactured homes on tribal trust or individual trust land. It has made approximately 20 of these. It has provided several train-the-trainer workshops on homeownership counseling. Most recently, in conjunction with the Northwest Indian Housing Association and the Nez Perce tribe, it sponsored a 2-day workshop. Sixty representatives of 24 tribal housing authorities and TDHEs learned how to educate their tribal members on the ins and outs of homeownership.

Washington Mutual is involved in several other initiatives. In October of 1999, it announced that it was offering HUD 184 loans to tribes in the Northwestern states of Washington, Oregon, Idaho, and Utah. It provides first mortgage financing in conjunction with six tribes in California, Washington, and Oregon. Utilizing gaming, NAHASDA, or general tribal funds, these tribes provide downpayments of \$5,000 to



\$70,000 to help their members obtain homes. Washington Mutual is also partnering with tribes in Oklahoma (see related section) in which it has made approximately 60 loans.

### **Wells Fargo Home Mortgage**

Wells Fargo Home Mortgage through its offices nationwide has been an active participant in mortgage lending in Indian Country. The company has originated more Section 184 loans than any other financial institution at over 100 loans. Additionally, in recent months Wells Fargo Home Mortgage has undertaken the following activities:

- Negotiated a conventional lending tri-party agreement between the Oglala Sioux, Fannie Mae, and Wells Fargo.
- Originated HUD 184 loans on all nine reservations in South Dakota and have enrolled Native American families in its “Homebuyer’s Club.”
- Worked with the South Dakota Housing Finance Agency to create its Fannie Mae securitized housing finance authority pool on tribal lands
- Provided home equity loans on tribal trust lands in South Dakota, in conjunction with BIA-approved first mortgages
- Was a participating sponsor in the Pueblo of Acoma Housing Authority 1999 homeownership awareness campaign.

### **Mortgage Insurance Company Initiatives**

#### **PMI Mortgage Insurance Company**

PMI has agreed to provide mortgage insurance of up to \$60 million for home loans made to tribal members of the Chickasaw, Cherokee, and Citizen Potawatami tribes in Oklahoma and the Choctaw tribe in Oklahoma and six other States. The program which began with the Chickasaw Nation (and is called “Chuka Chukmast” or “beautiful home” in Chickasaw) was announced in April 1998. The tribes are packaging the loans and offering counseling to the homebuyers. Loans made on existing homes are being sold to Washington Mutual. Those for new construction are being purchased by Staten Island Savings Bank.

The Chickasaw expect to leverage \$10 million through this partnership and to assist 200 borrowers to obtain purchase, rehabilitation, or refinance mortgage financing. A three-percent downpayment will be standard, although borrowers can take advantage of a special one-percent downpayment option. The remaining two percent

downpayment along with closing costs can come from a revolving loan fund offered by the tribe, which contains a five-percent interest rate and a repayment term of 5 years. A permanent interest buydown of one half of one percent is also available through the Chickasaw Nation. Forty-two members of this tribe received loans through this initiative in 1999.

The CitizenPotawatomi Nation joined the partnership in November 1998 in a five million-dollar initiative. Tribal members who take advantage of this opportunity can apply for mortgage funds through First National Bank and Trust Co. of Shawnee, also Native American-owned. Mortgage loans will be funded by Washington Mutual Bank who will sell them to Freddie Mac.

The Choctaw Nation is receiving \$10 million for tribal members within Oklahoma. An additional \$15 million will be available for tribal members in seven other states. In 1999, 58 families were assisted.

The Cherokee Tribe joined the partnership in December 1999. It expects to use \$10 million through this program. Two hundred families are expected to be assisted.

First Americans and PMI are working on a mechanism for tribal families with credit issues. Termed "A- paper," the product would make loans possible for these applicants at 9 to 9.5 percent interest. Thereafter, the tribe could work with their members to get credit issues resolved and the loan could be refinanced at a lower rate. Staten Island Savings Bank is participating with a commitment of \$10 million. The Bank purchases these loans from First Americans and construction loans will also be made available through a subsidiary of the bank—American Construction Lending Services.

### **Republic Mortgage Insurance Company (RMIC)**

RMIC, based in Winston-Salem, North Carolina, has committed funds and support to a Financial Management Curriculum for ninth grade and community college students at the Pine Ridge Reservation. Based on the success of the program, they plan to expand it to reservations nationally and will seek cosponsors. RMIC has also piloted a "train the trainer" curriculum at the CitizenPotawatomi Nation in Oklahoma for representatives of several tribes. The curriculum was designed to prepare teachers to present pre-homeownership educational materials.

### **Bond Financing**

A 250-unit single-family housing project is being developed by the White Mountain Apache Tribe as sponsor, and the White Mountain Apache Housing Authority as owner. For the first time, funding for a project in Indian Country will be a blend of tribally issued tax-exempt bonds, Section 184 guarantees, and grant funds from

NAHASDA. When completed, the project will provide long-term rentals with the housing authority as lessor. The homes will be constructed on scattered sites and in clusters. Each family's financial ability to pay will be assessed and the amortized debt service will be attributable to their home. The tenants will have the opportunity to purchase the unit (after January 1, 2010). Phase One of the project, called "Apache Dawn" includes the construction of 52 units which are scheduled to be completed in the Fall of 2000.

Bank One Mortgage Corporation is issuing mortgage-backed certificates of the Government National Mortgage Association (GNMA) in the amount of the Section 184 guarantee. Bank One has agreed to lend the authority money for each house—the loans are repaid by the rental payments but are guaranteed by ONAP. Countrywide will purchase the loans from Bank One and pool them in a Ginnie Mae mortgage-backed securities. The Ginnie Mae certificates will be purchased by the Bond Trustee acting on behalf of the bondholders. Because the GNMA securities back the bonds, they will be rated triple-A by Moody's Investor Service. Prior to or up to the time of the maturation of the bonds, NAHASDA funds may be used to assist the individual homebuyers in transferring the debt of their respective homes to their own 184 loans, by either paying down the interest rate on the mortgage, or assisting in the buying down of the purchase price of the home. The trustee for the bonds is National Bank of Arizona. They were underwritten by US Bancorp Piper Jaffray in Minneapolis.

### **Low Income Housing Tax Credits (LIHTC)**

The LIHTC was originally authorized as a rental program in the 1986 tax act and has been used by several tribes to provide rent-to-own opportunities to their members. Investors in tax credit projects receive a credit against Federal tax owed in return for providing funds to developers to help builder renovate housing for low income households. One of the pioneers in this effort has been Shoshone and Kootenai Housing Authority in Pablo, Montana. It used the LIHTC to finance a 24-unit lease purchase development. Residents may purchase the units after 15 years. Other tribes utilizing the LIHTC for similar purposes include the White Mountain Apache Community Development Corporation in Arizona; the Red Lake Reservation Housing Authority in Minnesota; Southern Ute Tribe in Colorado; Ojibwa on the Cheyenne River Reservation in South Dakota; the Pueblo of Santo Domingo Housing Authority in New Mexico; the Tselihahaa Resident Management Corporation on the Navajo Nation in Jedito, AZ; the Lakota Fund on the Pine Ridge Reservation in South Dakota; the Menominee Tribe in Wisconsin; and the White Earth Housing Authority in Minnesota.

The Raymond James Tax Credit Funds, Inc. based in St. Petersburg, Florida has formed a \$25 million equity fund to invest in tax credit projects sponsored by Indian

housing authorities and tribes. As of early February 2000, \$10 million had been committed for 11 projects.

The Enterprise Social Investment Corporation (ESIC), a subsidiary of The Enterprise Foundation, also develops equity funds with financing from corporations that want to invest in affordable housing through tax credit projects in Indian Country.

### **Lending Leveraged with NAHASDA Funds**

The passage of NAHASDA legislation in 1996 has spurred several tribes into creative partnerships with lenders.

#### **Bay Mills Housing Authority**

This tribe in Michigan has a tri-party agreement with Central Savings Bank through which the bank can offer HUD 184, Rural Development or conventional loans to members to the tribe. The tribe has hired a tribal member who is also a former banker to provide credit and homeownership counseling to prospective borrowers. NAHASDA funds are used to provide downpayment assistance of ten percent of the loan (but not to exceed \$8,000) to families with incomes at or below 80 percent of the area median. The tribe provides similar downpayment assistance to families with higher incomes. To date, 15 loans have been processed. A Bay Mills tribal member also recently obtained the first home loan/guarantee under the Rural Housing Native American Pilot program a joint effort of the Rural Housing Service of USDA and Fannie Mae.

#### **Cook Inlet Housing Authority**

Cook Inlet located in Alaska has successfully leveraged its HUD HOME and now NAHASDA funds to provide homes to 324 first-time homebuyers since 1993. With \$8.1 million dollars in government funds, the housing authority leveraged \$30.3 million. The housing authority provides a 20 percent buy-down and also makes a gift of two percent of the five-percent downpayment required by the Alaska Housing Finance Corporation for families with incomes at or below 80 percent of median income. Its rural home program targets borrowers at 50 percent of median or less. In this program, multiple subsidies, including Affordable Housing Program grants from the FHLBank of Seattle, are being creatively used to serve very low-income families. Cook Inlet reports that virtually all of the banks and mortgage companies in Alaska are participating in these programs.

#### **Coeur d'Alene Tribe**

Wells Fargo Mortgage also financed homes for this tribe located in western Idaho. Thirty homes are being developed in a subdivision on trust land. The tribe received the loan and will in turn lease the homes to the potential homeowners until the borrowers can afford to purchase them. The tribe expects to add additional units to this subdivision and to develop others. The Section 184 program will provide the guarantee on the homes.

### **Cortina Band of Wintun Indians**

This band in California is using some of its NAHASDA funds to provide principal and interest on mortgages provided by California Federal Bank FSB. NAHASDA funds are also being used to cover down payments and closing costs.

### **Coquille Tribe**

The first member of this tribe on the coast of Oregon just received a Section 184 loan through Wells Fargo Home Mortgage. In this case, the housing authority is the contractor.

### **Crow Creek Housing Authority**

This housing authority utilized a BIA guarantee with an assignment of Tribal Infrastructure Trust Fund Income and a commitment of HUD block grant funds and homebuyer payments to successfully close a \$600,000 loan with Wells Fargo Bank, Chamberlain, SD for the development of eight homes on the Crow Creek Reservation in South Dakota. This is the first phase of a joint effort between the SD Housing Authority, Wells Fargo Bank, Indian Health Service, the Crow Creek Sioux Tribe, a BIA Loan Guarantee Program, the housing authority and the homebuyers. The IHS is supplying \$100,000 for infrastructure needs (water and sewer). Housing authority homebuyer classes are being provided to potential homeowners.

### **Grand Ronde Tribe**

This tribe in Oregon utilized the Section 184 program to fund one of the first manufactured home subdivisions on trust land with the assistance of Wells Fargo Mortgage. The tribe provided the infrastructure for the subdivision. It also supports tribal members with downpayment assistance grants for first-generation homebuyers. Each loan was a construction loan.

### **Karuk Tribe**

Wells Fargo Bank is also now offering Section 184 loans to members of this tribe on fee simple and trust land in Northern California. The Karuk Tribe will offer downpayment assistance to its members.

### **Menominee Tribe**

This tribe, located in Wisconsin is using \$500,000 of its NAHASDA funds to guarantee home loans. In the event of a default, the Housing Department will step in and pay off the loan, acquire title to the home/property, rehabilitate it and then resell it to another tribal member. The participating local bank is Associated Bank of Green Bay. The housing department will prescreen the borrowers and provide homeownership counseling through a tribal loan coordinator. The Federal Home Loan Bank of Chicago is offering a grant of up to \$5,000 in downpayment assistance for enrolled Native Americans with incomes at or below 80 percent of the area median income.

In conjunction with a Low-Income Housing Tax Credit development, the housing department established the Wolf River Development Company. This tribally-chartered business has been used to help facilitate the development of three housing projects by circumventing some sovereign immunity issues. Under the auspices of this development company, a WICK homes dealership (a component building system) was established on the reservation, which allows for a three percent discount for tribal members. The tribe has provided Wolf River Development Company with 16 lots to develop. The lease would be transferred following the sale of a WICK home to a tribal member.

### **Quinault Indian Housing Authority**

This housing authority, located in the State of Washington, has been working to foster homeownership in a partnership with the BIA Moquim Agency and Anchor Savings and Loan since 1993. The bank loaned the tribe the money for construction, the housing authority constructed the homes and sold them to pre-qualified purchasers who received lender and BIA approval for a mortgage. These loans were early Section 184/248 loans. Other lenders participating with this housing authority are First Federal Savings and Loan of Port Angeles, Seafirst Bank (Bank of America) and Washington Mutual Savings Bank.

### **Lending Leveraged with Tribal Funds or Gaming Proceeds**

Some tribes that have gained income from profitable gaming operations have partnered with lenders to provide homeownership opportunities.

### **Oneida Tribe**

This tribe in Wisconsin uses its gaming revenues to subsidize bank loans. One of their programs, the TLC, provides borrowers with a 25 percent downpayment and the lenders finance the remaining portion. Lenders participating are Associated Bank of Green Bay, Bay Bank, Bank One and three local credit unions. Since 1995, 139 families have received TLC loans. The tribe is also utilizing proceeds from its gaming operation to buy fee simple land parcels on which existing houses sit and reselling them to tribal members for the price the tribe paid minus the cost of the land (the Dream Program). The tribe in turn leases the land to the family for a dollar per year.

### **Saginaw Chippewa Tribe**

The SaginawChippewa Tribal Council, of Michigan, recently approved a breakthrough resolution authorizing Tribal Member Per Capita gaming profit payments to secure mortgage loan payments.

With this resolution, leasehold mortgage payments are secured by the Tribe through an Assignment of Per Capita Payments Agreement with a direct deposit of member per capita payments to a restricted savings account at Labella Bank and Trust (the local bank helping pioneer this program) deducts the mortgage and escrowed homeowners' insurance payments from the account each month. Another unique element of this program is the priority and security position granted the lender for each mortgage utilizing the Assignment of Per Capita Payments Agreement.

Each borrower applies for their mortgage through the Tribes Housing Office. Housing processes each applicant through a unique underwriting program stressing education, counseling, commitment, and other assistance as needed to make it all work. The process offers and requires leasehold verification, credit report cleanup, budget and credit counseling (as needed), a minimum five percent downpayment and one percent loan origination fee and makes available post-purchase homeownership education. With a fully staffed Loan and Credit Department, Licensed Realtors, all leasehold and title work, and full credit and budget counseling services, the Tribe's Housing Office offers its members complete homebuyer and home improvement financial services.

### **Seminole Tribe**

This tribe located in Florida has begun a conventional loan program whereby the tribe guarantees the loan. In addition, the mortgages are structured so that if a tribal member is unable to keep up with his/her mortgage payment the mortgage can be assumed by another tribal member thereby keeping the house out of the courts altogether. The tribes' TDHE will provide homeownership counseling to the borrowers. Indiantown Bank is the participating local lender.

## **Title VI—Federal Guarantees for Financing of Tribal Housing Activities**

Under Title VI of the Native American Housing Assistance and Self-Determination Act (NAHASDA), HUD is authorized to guarantee notes or other obligations issued by Indian tribes or tribally designated housing entities (TDHEs) for the purpose of financing affordable housing activities described in section 202 of NAHASDA. The guarantee is provided where financing cannot be completed in a timely manner without the use of the guarantee.

Tribes and TDHEs pledge Indian Housing Block Grant (IHBG) funds as security for repayment of the obligation. IHBG funds may be leveraged up to five times the current grant award with consideration of funds needed to maintain and other existing housing stock.

The objectives of the Title VI guarantee program are to enhance the development of affordable housing activities, increase access to private capital to further economic growth, and encourage the investment and participation of traditional financial institutions which do not customarily serve Indian reservations and other Native American areas.

### **Capacity Building Grant**

HUD has provided a grant that will fund technical assistance for Indian tribes and their TDHEs through a Capacity-Building Grant. Grant funds are used to enhance a tribe's administrative skills where a tribe or TDHE has an acceptable Title VI project.

The Capacity-Building grantee is IHA Management Systems, Inc. (IHAMS). IHAMS is available to assist tribes and TDHEs with the preparation of Title VI documents; financial negotiations with investors or lenders; capacity-building and development of administrative personnel skills relative to a Title VI project; and other activities to develop a viable Title VI project.

This service is provided at no cost to the Tribe or TDHE, however funds are limited and are provided on a first come, first serve basis. Thus far, 14 Indian tribes and TDHEs have requested and received technical assistance from the IHAMS.

### **Secondary Market**

#### **Fannie Mae**



Fannie Mae invested \$11.7 million in a Collateralized Revenue Bond with the White Mountain Apache Housing Authority of the Fort Apache Indian Reservation. The Housing Authority will lease parcels of land from the White Mountain Apache Tribe to construct approximately 250 units of rental housing. Each lessee has an option to purchase the house after January 1, 2010.

Fannie Mae has entered into a new home construction program with the Navajo tribe. The appraised value of the homes will be based on construction costs. Down payments in the range of one to three percent are eligible in this program. New homes have been completed, and it is anticipated that one new home per month will be constructed during the coming year. First National Bank of Pueblo, Colorado, and Citizens Bank of Farmington, New Mexico, are providing the construction financing.

The Bay Mills Tribal Housing Authority of Michigan, using the Central Savings Bank as the primary lender and Fannie Mae as the secondary market lender, completed the first-ever Rural Housing Native American Pilot loan. This loan allows the borrower to finance 100 percent of the appraised market value of the property. Twenty-two tribes in 11 states are eligible for these USDA loan guarantees.

Fannie Mae's investment in HUD Section 184 guaranteed loans exceeded \$50 million in 1999. Fannie Mae has financed 85 percent of all 184 loans.

PMI Mortgage Insurance Company and Fannie Mae have entered into a partnership on a Native American Conventional Lending Initiative (NACLI) where the borrower need only contribute one percent of the downpayment for the loan and the balance of the downpayment can come from the tribe. PMI will work out a risk-share arrangement with the tribe to make the mortgage insurance coverage possible. Cost-based appraisals can be utilized in this program.

Fannie Mae invested in low-income housing tax credits for Spirit Lake Lodge, Ft. Totten, North Dakota, to renovate 18 housing units and over one million dollars for the Pueblo of Santo Domingo in New Mexico to develop 20 new rental units.

### **Freddie Mac**

Freddie Mac is offering a variation on its Affordable Gold<sup>®</sup> program to members of the Cherokee, Chickasaw, Citizen Potawatomi, and Choctaw tribes in Oklahoma (see related section). It is buying mortgages from Washington Mutual Savings Bank and securitizing them into a financial vehicle that can be purchased by investors. The Freddie Mac seller-servicer for the pilot is First Tennessee Mortgage Corporation.

The maximum mortgage on these loans is 97 percent. Borrowers must contribute a minimum of 1 percent toward the downpayment. Such downpayment assistance to a

maximum of 2 percent is acceptable from a grant or a secured loan from the tribes. Gift funds are also acceptable. The types of loans offered are fixed rate/fixed payment with a maximum of 30 years' amortization. Conventional credit reports are required on all loans, however, alternative sources of credit history are acceptable from borrowers with limited or no traditional credit.

### **Ginnie Mae (Government National Mortgage Association)**

HUD's Ginnie Mae received authority to securitize Section 184 mortgage loans with the passage of the Native American Housing Assistance and Self-Determination Act of 1996. Since that time, Ginnie Mae has announced the expansion of its "Targeted Lending Initiative" to Indian Country. This initiative reduces guarantee fees in order to increase the servicing spread for lenders when eligible mortgage loans are collateralized by the full faith and credit of Ginnie Mae securities. This financial incentive should prove an inducement to originating financial institutions to close more loans in Indian Country. Ginnie Mae has become involved with several successful projects, as noted above, including Section 184 loans originated on the Pine Ridge and the White Mountain Apache reservations.

### **Federal Home Loan Banks (FHLBanks)**

The FHLBanks have awarded an increasing amount of Affordable Housing Program (AHP) dollars to tribes in recent years. These are grants that are awarded by the FHLBanks through financial institution members of the FHLBank System to nonprofit organizations and public entities for homeownership or rental housing purposes.

The FHLBank of Indianapolis was instrumental in the first loan made/guaranteed through the Rural Housing Native American Pilot mentioned above. Through its member Central Savings Bank, the FHLBank awarded \$5,000 in a grant toward the purchase of the home through its AHP first-time homebuyer set-aside. See Appendix L of this report for additional information on FHLBank System initiatives.



## APPENDIX L

### **Summary of Federal Financial Regulators Initiative**

#### **Federal Deposit Insurance Corporation**

550 17<sup>th</sup> Street, NW  
Washington, DC 20456  
(202) 393-8400 <http://www.fdic.gov>

Congress created the Federal Deposit Insurance Corporation in 1933 to restore public confidence in the Nation's banking system. The FDIC insures deposits at the Nation's more than 10,000 banks and savings associations and it promotes the safety and soundness of these institutions by identifying, monitoring and addressing risks to which they are exposed. The FDIC is the primary Federal regulator for State-chartered mutual savings banks and State-chartered commercial banks that are not members of the Federal Reserve System.

Over the past several years the FDIC has taken a proactive role in the identification of barriers to lending in Indian Country. As a result the FDIC has led, co-sponsored and facilitated efforts that have resulted in tangible results to address a number of barriers identified in this report. While there is still much to be done, strides made through the conduct of conferences, workgroups and partnerships have established the foundation for continued progress in mortgage lending in Indian communities.

The following summary highlights several major efforts undertaken in recent years by the FDIC. This summary, while not exhaustive, discusses initiatives that target near-term and long-term achievements through collaborative efforts with Native Americans, bank regulators, Federal and State agencies, financial institutions and other private sector entities. Also of note is FDIC's recent participation in the Community Development Financial Institution (CDFI) fund's Native American Lending Study/Action Plan. As well as, earlier FDIC research efforts to identify barriers and solutions to lending to Native Americans, which resulted in an internal working paper on this subject for FDIC community affairs staff.

#### **Cheyenne River FOCUS Group**

In 1995, FDIC established the Cheyenne River FOCUS Group in Eagle Butte, South Dakota on the Cheyenne River Sioux Indian Reservation. The group is comprised of members of the Cheyenne River Sioux Tribe, Eagle Butte State Bank, American State Bank, First Financial Bank and representatives from the Small Business Administration, Federal Reserve Bank of Minneapolis and USDA Rural Development. Some of the group's projects include:

***Tribal Uniform Commercial Code—Eagle Butte, South Dakota.*** In an effort to address the absence and/or inconsistencies in the Cheyenne Reservation infrastructure, the FOCUS group developed a tribal UCC. This initiative is in the final stages of review for potential adoption by the governing entities in 2000.

***Cheyenne River Revolving Loan Fund—Eagle Butte, South Dakota.*** As a means of promoting general economic development, the FOCUS group is in the process of writing a charter for the fund, selecting board members, refining the loan fund mission and researching funding sources. The near-term goal is to issue micro-loans on the Cheyenne reservation by year-end 2000.

### **Follow-up from Sovereign Lending Workshops**

As a follow-up to the seven sovereign lending workshops mentioned below in the interagency projects (four in Washington State and one each in Portland, Boise and Salt Lake City), the FDIC is involved in the following projects:

***Bank Branch—Duck Valley Reservation, Idaho.*** As a result of direct guidance and resources provided by FDIC, a Native American consultant and Duck Valley tribal leaders signed an agreement for the consultant to develop and implement a credit association infrastructure specifically tailored to the needs of reservation members.

In addition, as a result of the Duck Valley workgroup, one of the bank participants recognized an opportunity to provide banking services to a population of people about 400 miles from the nearest financial services. Nevada Bank & Trust received approval from the FDIC and the Idaho State Banking Commission to open a branch at the community services center of Duck Valley Reservation. The bank official opened in December 1999 and will work in partnership with the proposed credit union.

***Financial Literacy Curriculum—Ute Tribe, Utah.*** American Express Centurion Bank and Washington Mutual Bank, in collaboration with the Ute Tribe, have taken an active role in the development of a financial literacy curriculum and products that are responsive to the needs of the community. Unlike previous initiatives on financial literacy, the design of this curriculum is based on input and feedback from tribal members regarding their needs. The rollout date for this program is envisioned to be well before the end of 2000.

***Shoshone-Bannock Tribes of Fort Hall Reservation, Idaho.*** Bankers work with the tribes of Fort Hall Reservation have established task groups to focus on developing initiatives related to housing, financial literacy and business development. Efforts are ongoing.

***Native American Development Corporations—Montana and Arizona.***

Presentations were made in October and December 1999 to bankers in Montana and Arizona, respectively, for the establishment of statewide Native American Development Corporations. The proposed mission of the CDC is to lend, invest and serve as intermediaries for, among other things, mortgage lending to Native Americans on and off reservations. Three banks in Arizona have expressed strong interest in the establishment of a CDC. Efforts for both states are ongoing.

**Federal Reserve System**

20<sup>th</sup> and C Streets, NW  
Washington, DC 20551  
(202) 452-3000 <http://www.bog.frb.fed.us>

The Federal Reserve System, founded by Congress in 1913, is the central bank of the United States. The System's duties fall into four general areas: conducting the Nation's monetary policy; supervising and regulating banking institutions; maintaining the stability of the financial system; and providing certain financial services to the U.S. government, the public, financial institutions, and foreign official institutions. The FRS is the primary Federal regulator for State-chartered banks that are members of the Federal Reserve System, and bank holding companies.

The Community Affairs Program at the Federal Reserve Board is a program of education, information, and technical assistance serving a variety of audiences including banks, community organizations, local State, and Federal Government agencies and trade associations. The program staff provides information and training on community reinvestment, fair lending, and community and economic development financing with the goal of making credit more accessible to all communities, including low-and moderate-income areas.

Several Banks in the Federal Reserve System are actively engaged in efforts to highlight and address the lending needs of Native Americans. The Community Affairs staff of the Federal Reserve Banks of Minneapolis, Kansas City, and San Francisco, as a regular part of their outreach programs, meet with tribal leaders and members to discuss community and economic development issues and barriers to conducting business in Indian Country. Additionally, staff works with bankers to identify methods and programs to help financial institutions learn more about the benefits of doing business with Native Americans. The Reserve Banks also conduct research and publish articles which highlight the issues facing Native American and non-Native Americans interested in finding business opportunities in Indian Country.

**Programs**

*Federal Reserve Bank of San Francisco* Staff from the Federal Reserve Bank of San Francisco's Seattle Branch facilitated a series of seven workshops called Sovereign Lending, discussed above. During these sessions, participants identified barriers and possible solutions to lending in Indian Country. The workshops resulted in the creation of seven task forces that have studied the credit barriers more closely and developed strategies to increase credit access in Indian Country. The task forces include representatives from over 40 Indian tribes, government agencies, lenders, and nonprofit and community-based organizations. Since their inception, the task forces have held meetings at over 45 Indian Reservations in the Northwest, and helped establish business resource centers, developed bank and tribal directories, fostered the development of direct deposit service for tribal government employees, enhanced relationships between the tribes and other organizations, and provided training on financial service issues. In addition, task force participants report increased loan volume on reservations resulting from the sessions.

The Seattle Branch is developing workshops on additional topics to supplement the information discussed at task force meetings and is planning workshops on tribal law for Spring 2000. The tribal law clinics are intended to focus on the need for a Uniform Commercial Code (UCC) and other business laws to provide guidance to lenders when conducting business on reservations. The clinics will be held in four locations throughout the State of Washington and are co-sponsored by the Federal Reserve, the Affiliated Tribes of Northwest Indians, the Northwest Tribal Judges Association, the Washington Bar Association, the Office of Thrift Supervision, and Fannie Mae. Three different colleges are also working with the partnership and cooperating in the program.

Staff at the Federal Reserve Bank of San Francisco are expanding on the program initiated at the Seattle Branch to include tribes located in Nevada, California, and Arizona. Based on information gathered at small "focus group" sessions, participants will formulate a strategy to address financial service issues in Indian Country. The Reserve Bank also assisted the Community Development Financial Institution Fund with the Native Hawaiian workshop held in August 1999, and the Reserve Bank has held one follow-up meeting to further define lending barriers and possible solutions. In 1999, Reserve Bank staff made 14 public presentations talking about lending in Indian Country.

*Federal Reserve Bank of Minneapolis* One of the difficulties with promoting economic development, specifically commercial and small business lending, on Indian Reservations is the lack of a UCC in some tribal communities. First Interstate Bank of Montana, the Federal Reserve Bank of Minneapolis, the Indian Law Clinic of the University of Montana School of Law and the Montana/Wyoming Tribal Leaders Council worked cooperatively to draft a model UCC code for tribes. This code was presented to tribal leaders at a joint conference in Montana in 1997. In 1999, the

original partners and others met to devise a strategy to further this initiative by demonstrating the benefits of a UCC to tribes. This effort continues into 2000.

Staff at the Federal Reserve Bank of Minneapolis has also produced a five part video series on "Lending in Indian Country." This video series was based on a course the Reserve Bank developed with the assistance of financial industry experts. The curriculum highlights the complex legal and cultural barriers to lending on Indian Reservations. Lenders and regulators throughout the country attended the workshops and the video series permits the information to reach an even broader audience.

*Federal Reserve Bank of Kansas City* The Federal Reserve Bank of Kansas City developed a case study which highlights Native American lending issues to be used at training sessions and meetings. The case study offers participants a look at the challenges involved in Indian Country lending and provides a venue to think about alternative methods using innovative and creative products to address the barriers and issues identified.

## **Outreach**

Community Affairs staff routinely conduct outreach meetings on Indian reservations. Several projects and programs have evolved from these outreach efforts. A series of outreach meetings with tribal leaders and members in the Minneapolis Federal Reserve Bank District revealed a need for enhanced financial literacy training to help tribal members learn about personal financial management issues and bank services. Staff from the Minneapolis Reserve Bank worked with the Fond du Lac Tribal and Community College (FDLTCC) to design a course to focus on these issues. Staff worked with the FDLTCC, tribal leaders, and members of the local financial service providers to develop a financial services curriculum for students interested in pursuing careers in the banking industry. The course and the curriculum are now regularly scheduled and available to students enrolled at FDLTCC. During 1999, staff at the Minneapolis Reserve Bank contacted national leaders at post-secondary educational institutions in Indian Country and initiated discussions about introducing the financial literacy course to tribal colleges across the country. Those discussions resulted in the formation a working group that includes the Reserve Bank, First Nations Development Institute, FDLTCC, and the Fannie Mae Foundation. This working group is designing a culturally specific course entitled: "Native Values Added Financial Skills Curriculum." The working group plans to present this curriculum to local Native American colleges, planning departments, housing authorities, and other established tribal entities who could conduct the training sessions.

Leaders of the Federal Reserve System have also taken a direct and active interest in Indian Country issues. Federal Reserve Governor Lawrence H. Meyer visited two Minnesota Indian reservations to discuss economic development issues with tribal



leaders. Governor Meyer met with tribal leaders of MilleLacs Reservation near Onamia and the Fond du Lac Reservation in Coquet. These Reservations own casinos and are good examples of how tribes have invested casino profits in community development projects.

In 1999, the Federal Reserve Bank of Minneapolis co-sponsored a conference entitled, *Walking the Native Path: Seeking Solutions Through Economic Development and Housing Opportunities*. The conference was held on the MilleLacs Reservation and focused on the importance of housing and economic development to a Reservation economy; the link between housing and economic development; and ways tribal communities can benefit from the boom in the United States economy. As a result of information gathered at this conference, the Minneapolis Reserve Bank is planning a series of half-day workshops scheduled for 2000. These workshops will offer tribal leaders, lenders, and other community development professionals technical assistance on access to credit and other economic development topics specific to Indian Country. The purpose of the workshops is to impart information and to help foster local partnerships.

### Publications

The Minneapolis and Kansas City Reserve Banks have featured several articles on lending in Indian Country in their newsletters. In 1998, two issues of *Community Dividend*, the Federal Reserve Bank of Minneapolis newsletter, focused on community development in Indian Country. One issue featured articles on the HUD 184 homeownership program, how the NAHASDA rule was written, and the role of bank debt in community development. The other issue featured articles on the opportunity for banks to make credit more widely available Indian Country. The issue also featured articles about tribal sovereign immunity and doing business in Indian Country, as well as a model UCC code for Indian Country. In 1999, *Community Dividend* published an article about personal finance with an emphasis on personal finance course offerings at tribal community colleges.

The Federal Reserve Bank of Kansas City published two articles: "Lending in Indian Country" and "Sovereignty: The Strength of Nations—and of Business" in the *Community Reinvestment* publication. Both issues have been distributed widely and referenced by the White House, Federal Government agencies, Indian Country newspapers and magazines, and legal reference books.

### **Contact**

To obtain information about the Federal Reserve's activities or receive copies of a publication write to the Board of Governors of the Federal Reserve System, Division of

Consumer and Community Affairs, Mail Stop 803, Washington, DC 20551 or call 202-452-3378.

**Office of the Comptroller of the Currency**

250 E Street, SW

Washington, DC 20219

(202) 874-5000 <http://www.occ.treas.gov>

The Office of the Comptroller of the Currency (OCC) was established in 1863 as a bureau of the Department of the Treasury. The OCC charters, regulates, and supervises national banks to ensure a safe, sound and competitive banking system that supports the citizens, communities and economy of the United States. The OCC is the primary Federal regulator for all federally chartered commercial banks.

Over the past 7 years, the Office of the Currency initiated and has continued an active outreach program in Indian Country. In 1993, senior OCC officials began meeting with community organizations and bankers to discuss the availability of credit and other financial services in their communities. These meetings included visits to Native American communities who indicated that Native Americans living in Indian Country were not being provided the same level of financial services as the general population. The OCC committed to review their concerns about access to credit in Indian Country. The OCC's Native American Working Group (NAWG) was established to help meet this commitment. The NAWG has been actively involved in organizing and developing conferences and publications and coordinating technical assistance for banks and Native Americans concerning access to credit in Indian Country.

## Meetings/Conferences

Since 1996, the OCC has provided speakers and participated as co-sponsor to a variety of meetings/conferences related to banking issues in Indian Country. These meetings reached over 1,500 tribal leaders and others interested in the issue. Examples include:

- The OCC participated in the planning and administration of the White House interagency conference *Building Economic Self-Determination in Indian Country* held in Washington, D.C. on August 5-6, 1998. The conference, attended by more than 800 tribal leaders, bankers, bank trade association representatives, and government representatives, featured remarks from President Clinton and seven cabinet members. Then-Acting Comptroller Julie L. Williams was also a featured speaker.
- NAWG members were presenters on a panel on bank chartering at *Native American Finance Officers Association 16<sup>th</sup> Annual Convention* in Las Vegas, NV, on June 4, 1998. The convention was attended by more than 150 tribal financial officers.
- With the Department of Justice's Office of Tribal Justice, the OCC co-sponsored a conference on *Banking in Indian Country* in Washington, DC, July 24-25, 1997. The conference was attended by more than 400 tribal representatives, bankers, and leaders from bank trade associations and Indian organizations. Mortgage lending in Indian Country was the topic of one panel. Additional information about this conference is available electronically at <http://www.occ.treas.gov/events/indian.htm>.
- In February 1996, the OCC convened a national conference on community development in Washington, DC, attended by more than 600 bankers, representatives from community organizations and public officials. The breakout session titled "Lending in Indian Country" covered a variety of issues involved in making credit and financial services available to Native Americans, and the session was captured in the OCC publication *Community Development: A Profitable Market Opportunity*. The agenda of the conference is available electronically at <http://www.occ.treas.gov/agenda.htm>.

## Publications

The OCC has developed and distributed over 16,000 copies of publications concerning Indian Country. They include:

- *A Guide to Tribal Ownership of National Banks* (August 1998)—This publication is a complement to the *Comptroller's Corporate Manual*, and is an aid to Indian tribes exploring entry into the national banking system. This publication is available electronically at <http://www.occ.treas.gov/corpbook/tribalttribalp.pdf>.
- *A Guide to Mortgage Lending in Indian Country* (July 1997)—This publication provides an overview of the mortgage lending process and highlights steps in the process that are unique to lending on trust lands. This publication is available electronically at <http://www.occ.treas.gov/events/country.pdf>.
- *Providing Financial Services to Native Americans in Indian Country* (July 1997)—This publication provides information, based on the experiences of several national banks, on how to effectively provide financial services to Native Americans living in Indian Country.

Publication ordering information is available electronically at <http://www.occ.treas.gov/pubs1.htm> or by writing the Office of the Comptroller of the Currency, Communications Division, 250 E Street, SW, Washington, DC 20219 or by calling (202) 874-4960.

### **Technical Assistance**

- As a result of the workshops the OCC co-sponsored with the ATNI Economic Development Corporation and others, participants established task forces in the Northwest. Representatives from the OCC, FDIC, and Federal Reserve serve on these task forces, along with representatives of local tribes and financial institutions. These task forces were established to foster increased understanding of the barriers to lending in Indian Country and suggest ideas for solutions to address them. Through the task forces, new partnerships between private industry and Northwest Indian nations have developed.
- The OCC also provides technical assistance to tribes interested in entering the national banking system. This advisory role includes the review of applications prior to their filing.

### **Office of Thrift Supervision**

1700 G Street, NW  
Washington, DC 20552  
(202) 906-6000 <http://www.ots.treas.gov>

The Office of Thrift Supervision (OTS) was established as a bureau of the U.S. Treasury in 1989. OTS' mission is to ensure the safety and soundness of thrift

institutions and to support their role as home mortgage lenders and providers of other community credit and financial services. OTS is the primary Federal regulator for all Federal- and many State-chartered thrift institutions or savings and loan associations.

One of the Office of Thrift Supervision's strategic goals is to improve the availability of financial services by encouraging safe and sound lending in the areas of greatest need, including Native American communities. For the past several years, OTS has sought to improve the thrift industry's understanding and knowledge of the needs of Native Americans through a combination of information sharing, training, technical assistance, and partnership building. Much of OTS' work has been done at a very localized level, promoting partnerships between individual thrift institutions and tribes, as well as other public, private and nonprofit sector organizations. Listed below are a number of broader scope initiatives that OTS has undertaken in recent years to address the real and perceived barriers to mortgage lending in Indian Country:

### **Thrift Industry Newsletter**

The Office of Thrift Supervision (OTS) publishes a periodic newsletter, *Community Liaison*, that addresses challenges, successes, and resources in the fields of affordable housing and community development. Although the primary audience is the thrift industry regulated by OTS, the newsletter is circulated not only to all thrifts, but also to hundreds of community organizations, Federal agencies, and State and local government offices and agencies.

In an effort to increase the thrift industry's involvement with tribal lending, the August 1997 edition of *Community Liaison* was devoted entirely to the topic of Lending on Tribal Lands. The newsletter included articles on: general lending considerations; the efforts of one thrift to provide home mortgages on tribal lands; the services of the Navajo Partnership for Housing; and Federal Government loan programs and the role of the secondary market. Also included was a reprint of an article entitled Lending in Indian Country: The Principal Legal Issues prepared by the American Bankers Association.

Copies of the newsletter are available by contacting Caryn Stein, National Community Affairs Liaison, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, phone: 202 906 7020, fax: 202 906 5735, e-mail: [caryn.stein@ots.treas.gov](mailto:caryn.stein@ots.treas.gov).

### **1998 Native American Housing Conference**

On August 4 and 5, 1998, OTS and the State of New Mexico's Office of Indian Affairs co-sponsored the "1998 Native American Housing Conference" in Albuquerque, New Mexico. The goals of the conference were to: (1) discuss the primary issues relating to building and financing housing on tribal lands; (2) foster new business relationships and collaborative efforts between Native American tribal groups and lenders; and (3) stimulate more lending and investment to expand home ownership on tribal lands.

Conference speakers set the framework by highlighting the need for accommodation and partnerships by both Native Americans and lenders. A series of breakout sessions focused on: (1) creative solutions to legal impediments to lending on trust lands; (2) successful lending programs in Indian Country; (3) the evolution of recent Federal legislation and its impact on housing on reservations; and (4) secondary market programs for mortgage loans generated on tribal lands. In addition, a tour of four Pueblos provided conference participants with first hand observations of the lending and investment opportunities that exist in Indian Country.

Over 225 individuals attended the conference. Participants included representatives of financial institutions, tribal groups, Federal and State government organizations, and Federal banking regulatory agencies.

### **Native American Visions 2000 Economic and Housing Development Conference**

On July 24 and 25, 2000, OTS and The United South and Eastern Tribes, Inc. (USET) co-sponsored the "Native American Visions 2000 Economic and Housing Development Conference," hosted by the Mashantucket Pequot tribe in Mashantucket, Connecticut. The conference focused on the challenges facing tribes in the Northeast and Southeast areas of the country.

The conference builds on the link between housing and economic development on tribal lands, where solutions to one will invariably contribute to the advancement of the other. Topics included: reports on the One Stop Mortgage Center Initiative and the CDFI Fund's Native American Lending Study; best practices for mortgage lending with and without government assistance; microenterprise development; financial literacy and homeowner education; and establishing financial institutions and nonprofit organizations. Participants included representatives from the banking, legal, and insurance sectors; Tribal governments; Federal and local government agencies; and community organizations.

### **NAIHC/OTS Partnership**

In late 1999, OTS and the National American Indian Housing Council (NAIHC) agreed to work together to further stimulate home mortgage lending at a very local level. Through this partnership, OTS and NAIHC hope to identify and bring together individual tribes and financial institutions that share a mutual interest in, and readiness for, home mortgage lending on a specific reservation.

Initially, NAIHC will draw on its extensive knowledge of the housing activities of its members to identify a tribe that has implemented both the legal infrastructure to support mortgage lending, and counseling and prequalification programs to prepare tribal members for homeownership. OTS will use the branch office location data collected by the OTS and the FDIC, and CRA Performance Evaluations prepared by all of the regulatory agencies, to identify thrifts and banks located in geographic proximity to the identified reservation and those that might otherwise be interested in pursuing a lending relationship with the tribe.

Then, working with the other regulatory agencies, OTS and NAIHC plan to sponsor a meeting of representatives from the financial institutions and the tribe, as well as key local representatives of Federal and State agencies, secondary market and private sector organizations. OTS and NAIHC hope that this forum will provide an opportunity for the financial institutions and the tribe to exchange information, learn about housing needs on the reservation, understand the products and services offered by the financial institutions, and identify programs that could be used to expand mortgage lending on the reservation lands.

OTS and NAIHC believe that by focusing on the specific circumstances of individual tribes and financial institutions, those entities might well succeed in establishing partnerships that can result in increased mortgage lending.

**Federal Home Loan Bank System/Federal Housing Finance Board**

1777 F Street, NW  
Washington, DC 20006  
(202) 408-2500 <http://www.fhfb.gov>

The Federal Home Loan Bank System (FHLBS) was created in 1932 to restore confidence in the Nation's financial institutions and re-establish the housing market by ensuring the availability of funds for home financing. Through its 12 District Banks, the FHLBS makes advances to its 7,000 member financial institutions, which in turn lend the funds for home mortgages and community development. The Federal Home Loan Banks are regulated by the Federal Housing Finance Board (<http://www.fhfb.gov>).

There are 12 FHL Banks, each of which is a separate corporate entity with its own independent board of directors and management (Boston, New York, Pittsburgh, Atlanta, Cincinnati, Indianapolis, Chicago, Des Moines, Dallas, Topeka, San Francisco, and Seattle). The FHL Banks raise funds by issuing debt instruments in the capital market. Since they are rated “AAA”, their cost of funds is only slightly above that of the U.S. Treasury, which enables them in turn to provide advances or loans to their members at an affordable rate.

To become a member in an FHL Bank, savings institutions, commercial banks, credit unions, and insurance companies purchase stock in the FHL Bank in the location in which they are chartered. As of June 30, 2000, there were 7,594 members.

By statute, the FHL Banks are required to offer two targeted housing/economic development programs—the Affordable Housing Program (AHP) and the Community Investment Program (CIP). Community Investment Cash Advances (CICAs) may now be offered by the FHL Banks to provide for housing and long-term economic development activities in underserved markets. The AHP is a competitive program whereas the CIP/CICAs may be offered by most banks on an as-needed basis. Both the AHP and the CIP have been used in Indian Country.

### **Affordable Housing Program**

The FHL Banks contribute the greater of \$100 million or 10 percent of their collective net income each year to the AHP. In 1999, the total amount available for the program was \$169 million and in 2000, it will be \$199.4 million. The amount available varies among districts. As mentioned above, AHP funds are allocated on a competitive basis except for a portion, that may be set aside by each FHL Bank for homeownership programs. Ten of the FHL Banks currently have such set-asides. For example, the FHL Bank of Chicago has set aside a portion of its set-aside downpayment and closing cost assistance for members of tribes in Wisconsin.

A FHL Bank member must sponsor applications for AHP funds. Competitions may be held throughout each year as determined by the FHL Banks—usually they have two. The AHP may be used to subsidize the interest rates for advances (loans) and to provide direct subsidies (grants). Funds can be used for rental or homeownership housing. For homeownership housing persons must have incomes at or below 80 percent of the area median income. In rental projects, 20 percent of the units must be made available and affordable to very-low income households (at or below 50 percent of the area median). Funds can and are often used in conjunction with other sources of funds such as HOME, Rural Housing Service, and the Low Income Housing Tax Credit.



The AHP may be used for construction, permanent, or bridge financing. It can be the first money into a project or the last. Each of the FHLBanks evaluates projects according to regulations promulgated by the Federal Housing Finance Board but there are many differences in the programs between FHLBanks.<sup>1</sup>

AHP applications are ranked on a 100-point scoring system based on nine criteria. The FHLBanks determine how many points are assigned to each of the categories. Projects sponsored by a not-for-profit organization or government entity (which includes Native American Tribes, Alaskan Native Villages and government entities for Native Hawaiian Home Lands) are given priority. The FHLBanks are also permitted to establish two additional priorities in their scoring. Several of FHLBanks have established a priority for projects in rural areas. One (Seattle) provides additional points if the project is located in an Indian area.

### **Recent AHP Homeownership Examples**

The following are examples of AHP-assisted homeownership projects funded within the last few years. In addition to these, the FHLBanks have awarded grants for other homeownership projects and many rental housing units.

- The FHLBank of Des Moines in late 1999 awarded \$50,000 through Western State Bank to the Spirit Lake Tribe in North Dakota to rehabilitate 15 single-family units on the Spirit Lake Reservation. The project is targeting very low-income elderly with incomes at or below 50 percent of the median income living in some of the oldest homes on the reservation. The reservation is near an area that was declared a disaster area due to rising floodwaters. The funds will be used to replace or repair electrical, plumbing, and heating systems and other health and safety issues.
- The Des Moines FHLBank also provided a grant of \$499,000 through Wells Fargo Bank to the Oglala Sioux Tribe Partnership for Housing, Inc to assist in the construction of 45 new single-family homes.
- The FHLBank of Indianapolis provided \$5,000 downpayment and closing cost assistance through its Home Savings Program (AHP set-aside) to Central Savings Bank to assist in the financing of the first loan guaranteed under the “Rural Housing Native American Pilot” program, a joint effort of the Rural Housing Service of USDA and Fannie Mae.
- The Topeka FHLBank awarded \$100,000 in AHP subsidy through McClain County National Bank to the Housing Authority of the Apache Tribe of Oklahoma

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<sup>1</sup> 12 C.F.R. Part 960.

for downpayment and closing cost assistance for Native Americans purchasing homes in rural Caddo County. Apache Tribe members will be given first consideration, then tribal members of the six other tribes located in this area. The AHP grant will make \$5,000 available to 20 qualified borrowers who will participate in a mandatory homeownership training program.

- The FHLBank of San Francisco awarded \$432,000 in AHP funds for the Hoeme Housing Initiative project for the Pascua Yaqui Tribe in Arizona through Arizona Bank. Funds will be used to provide down payment assistance to tribal members living on and off the reservation. Twenty-seven families are expected to be assisted upon participating in a homeownership counseling program and fifteen percent of the units are targeted to families with incomes below 45 percent of the area median. Homes will be retained for 30 years.
- The FHLBank of Dallas awarded \$187,000 to the Tohatchi Special Education and Training Center to renovate 25 single-family homes located within the communities of Tohatchi, White Rock, Standing Rock, and Lake Valley in the Navajo Nation. All homeowners are developmentally disabled and the renovations will allow them to continue to live independently. AHP funds will be used to purchase construction materials and people-power will be provided by the Navajo Nation's Public Employment Program. The Dallas FHLBank also awarded \$400,000 to the Isleta Housing Department in New Mexico for principal reduction and down payment assistance to assist 50 families purchase homes on a parcel of land donated by the tribe.
- At the end of 1999, the Seattle FHLBank awarded \$475,000 through First Interstate Bank of Riverton and Billings, Montana to the Eastern Shoshone Housing Authority to rehabilitate 68 single-family housing units on the Wind River Indian Reservation in Wyoming. In its second AHP funding round of 1999, the FHLBank awarded another \$558,000 in AHP subsidies for 104 homeownership units for Native Hawaiians.

### **Community Investment Program**

The CIP is a targeted housing and economic development program. Unlike the AHP, CIP funds are not grants but are made available as advances (loans) to members. The advances are provided to members at the FHLBank's cost of consolidated obligations or the cost of funds taking into account administrative expenses. They may be used to: finance home purchases by households whose incomes do not exceed 115 percent of the area median income; to finance the purchase or rehabilitation of housing for occupancy by households whose incomes do not exceed 115 percent of the area median income; or to finance commercial and economic development activities that benefit low- and moderate-income households (those with incomes at or below 80

percent of the area median) or are located in low- and moderate-income areas (where 51 percent of the households have incomes at or below 80 percent of the area median). The CIP is a flexible program that can be used for a variety of purposes including: day care centers, grocery stores, educational facilities, health care centers, office buildings, single-family and multifamily housing. As mentioned above, these funds are not awarded competitively but as in the AHP, they must be allocated through members of a respective FHLBank.

### **CIP Example**

First National Bank in Shawnee, Oklahoma will use \$600,000 in CIP funds to provide the permanent and construction financing of 36 new homes for members of the CitizenPotawatami Tribe on tribal land near Shawnee. Homes will be sold to low and moderate income families. The first 18 homes will be completed by June 2000, and the remainder by June 2001.

### **Community Investment Cash Assistance (CICA) Program**

In November 1998, the FHLBanks were given the authority to establish CICA programs for housing and economic development purposes targeted to specific geographic areas, individuals, or activities. Included within the eligible geographic areas are Indian areas as defined by NAHASDA, Alaskan Native Villages, and Native Hawaiian Home Lands. The FHLBanks are in the process of developing or finalizing their CICA programs.

### **Other FHLBank Resources**

In addition to the AHP, CIP, and CICA, tribes may gain access to FHLBank advances directly by becoming a non-member mortgagee. Tribally designated housing entities established under both State and tribal law are now specifically eligible to do so and need comply with less restrictive collateral requirements previously afforded only to State housing finance agencies.<sup>2</sup> In 1995, the MinnesotaChippewa Tribal Corporation became the first non-member borrower of FHLBank. The FHLBank of Des Moines worked with the Minnesota Housing Finance Agency, the Federal Housing Administration (FHA) and the Federal Housing Finance Board to initiate a demonstration program to originate at least 30 FHA-insured mortgages to American Indian homebuyers that are enrolled in any federally recognized Chippewa tribe. To date, 41 loans have closed.

### **Federal Housing Finance Board Activities**

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<sup>2</sup> 12 C.F.R. Part 970

<sup>3</sup> 12 C.F.R. Part 935.

The Federal Housing Finance Board is the safety and soundness and mission regulator of the FHLBanks. Its chairman, Bruce A. Morrison, has highlighted the availability of System resources at a number of forums over the last few years, including the White House conference on *Building Economic Self-Determination in Indian Communities* in July 1998, and meetings of Indian housing authorities and HUDs. Mr. Morrison was a keynote luncheon speaker at the *Shared Visions Summit* in Rapid City in July 1999 on the theme of "Time to Take Risk in Indian Country".

In May 1999, the Finance Board cosponsored a forum on "Successful Mortgage Lending Practices in Indian Country" with NAIHC in Washington, D.C. Participants spoke of how they overcame historical obstacles to such lending and shared key points for replication of programs nationwide. Representatives from Indian housing authorities, successful homebuyers, and lenders participated along with other regulators, FHLBank System representatives, HUD and other Federal agencies, and the media.

In July, 2000, the Finance Board published a final rule *Federal Home Loan Bank Acquired Member Assets, Core Mission Activities, Investments and Advances* which will, among other things, enable the FHLBanks to make certain targeted debt and equity investments for housing in Indian Country. See 65 Fed. Reg. 43,969 (July 17, 2000).

For general information about FHLBank System resources, contact Robert Youmans at the Federal Housing Finance Board at 1777 F Street, NW Washington, D.C. 20006. Phone 202/408-2581, e-mail [youmansr@fhfb.gov](mailto:youmansr@fhfb.gov). The Finance Board's website is <http://www.fhfb.gov> and the FHLBank Web sites may also be accessed from this site.

### **Interagency Initiatives**

#### **10-State Regional Conference-MilleLacs Indian Reservation, Minnesota**

On September 27-29, 1999, the Federal banking regulators helped to sponsor a 10-State regional Native American conference entitled "Walking the Native Path: Seeking Solutions through Economic Development and Housing Opportunities" on the Mille Lacs Reservation in Minnesota. The conference was a collaborative effort, with co-sponsors including: American Indian Housing & Community Development Corporation, Fannie Mae, Federal Deposit Insurance Corporation, Federal Home Loan Bank of Des Moines, Federal Reserve Bank of Minneapolis, Office of the Comptroller of the Currency, Office of Thrift Supervision, Minnesota Chippewa Tribal Housing Corporation, Minnesota-Dakota Indian Housing Authority, Minnesota Housing

Finance Agency, and Red Lake Housing Finance Agency, U.S. Department of Housing and Urban Development, and U.S. Department of Agriculture.

The focus of the conference was to highlight the importance of housing and economic development to a reservation's economy, the link between them, and how tribal communities can take advantage of the boom in the United States economy.

Participants could attend concurrent break out sessions on either housing issues or economic development strategies. Over 250 individuals attended the conference, including representatives from financial institutions, Federal and State government agencies, tribal organizations, community organizations, and the private sector.

Interagency meetings have been held between the FDIC, FRB, OCC and OTS to develop strategies that will provide mechanisms to monitor conference immediate outcomes and opportunities for long-term impact. Among the strategies currently being implemented to assess the effectiveness of the conference is the development of a survey for conference attendees. The purpose is to identify tangible outcomes (i.e. establishment of partnerships, issuance of loans, etc.) resulting from information disseminated and dialogue among the participants. As a result of strong interest expressed by attendees and potential survey results, the co-sponsors are exploring the possibility of organizing another conference in 2001 to build upon initiatives resulting from the dialogue and potential opportunities.

### **Sovereign Lending Workshops**

During 1998 and 1999, the Affiliated Tribes of Northwest Indians (ATNI) Economic Development Corporation, Fannie Mae, Federal Reserve Bank of San Francisco, FDIC, First Nations Development Institute, OCC and ONABEN (a Native American business network) co-sponsored a series of workshops. The workshops, in Washington, Oregon, Utah, and Idaho, included attendees from 21 tribes, as well as representatives of Federal, State, and county governments, small businesses, technical assistance providers; nonprofit organizations, and banks, thrifts, and other financial intermediaries. The workshops focused on the economic and demographic characteristics of represented tribes and featured discussions on current lending practices and ways to increase access to credit in Indian Country. Information about these workshops is available electronically at <http://www.occ.treas.gov/indian/seminard.htm>.



## APPENDIX M

### **National Nonprofit Resources**

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## APPENDIX N

### Appraisal of Single-Family Homes On Native American Lands

#### Introduction

Emerging markets are always a challenge for appraisers and others involved with processing real estate mortgages. How does an appraiser accurately reflect the present value for the future use of an asset whose price has not been tested in the market place? Matched pairs of sales may not exist or sales so infrequent their reliability is questionable. It is an appraisal problem encountered with many special use properties, rural properties, or architecturally unique dwellings. While the profession has developed tools which assist in the analysis, provide a basis for documentation, and develop parameters for the results, ultimately the conclusions rely on the judgment of the appraiser who must develop a creditable report.

In the continental United States and Alaska there are over 550 Native American Nations and Villages in addition to the Hawaiian Homelands and State recognized tribes. A growing number of Native Americans have the resources to purchase homes within these tribal communities. Mortgage programs are now available to facilitate such purchases, and lenders are eager to make such loans. However, the property may be remote, the market limited, the land restricted to a specific market, or the family's income may limit the ability to purchase housing. The appraiser's challenge is to gather the data, document a systematic approach and develop logical conclusions that measures these forces.

To develop accurate conclusions the appraiser must:

- Understand the land use patterns and market conditions that are typical within Native American communities and be respectful of the local tribal culture within which the appraiser is working.
- Understand the governmental limitations established by the tribe and Federal restrictions enforced by the Bureau of Indian Affairs (BIA) and how these differ from local governments or neighboring tribes.
- Understand the accurate application of the appraisal tools to develop the various approaches to value, including the analysis of residential leases and valuing leasehold estates, obsolesce and depreciated costs, and the requirement of the Uniform Standards of Professional Appraisal Practices (USPAP) to provide an accurate and understandable report.

A caveat must also be given. Guidance contained herein is general. Tribes and markets may reflect different characteristics which the appraiser must explain. Lenders and

underwriters must also understand the unique challenges of tribal lending. Reports may be structured differently and require review by experienced professionals. Also government agencies, lenders, or the secondary market may request additional information. Such requests or policies should be in writing and become part of the appraiser's report and underwriter's review.

### **Land Status And Property Rights To Appraise**

Within designated Native American communities, treaties and Federal laws have created a variety of ownership patterns. Some parcels may be fee simple, other parcels restricted tribal trust or allotted trust land. In addition, each Tribe develops its own codes and structure for doing business which will vary from neighboring Tribes or local governments. The appraiser must be familiar with the different restrictions and develop a reasonable value estimate for the subject property. Following are the general designations of land status commonly encountered in Indian Country and a limited explanation of the impact on the appraisal process and lending program.

#### **FEE SIMPLE**

Fee Simple ownership is an estate without limitations to any particular class of heirs or restrictions, but is subject to the limitations of eminent domain, escheat, police power, and taxation.

Fee simple is the land status typical in residential ownership ~~and~~ encountered within most Indian areas. It is real property ownership which may be bought, sold and transferred between Native American or non-Native American purchasers. Establishing value on Fee Simple property within a reservation or Indian area would follow general appraisal and lending practices.

#### **INDIAN LAND IN RESTRICTED OR TRUST STATUS**

Indian land which has Federal limitation on the transfer of ownership or encumbrance is typically referred to as being held in trust or restricted. There are differences between the two land status designations, but for the purposes of mortgage lending and appraisal they are treated the same.

*Trust land:* The title to land or any interest in land is held by the United States of America for the use and benefit of the Indian Tribe or individual Indian(s).

*Restricted Land:* The title to land or any interest in land is held in the name of the Indian owner subject to the condition that the land cannot be alienated or encumbered without the consent of the Secretary of the Interior either by a limitation

contained in the conveyance instrument pursuant to Federal law or because a Federal law directly imposes such limitations (25 U.S.C. 177).

- **TRIBAL LANDS**—Tribal Trust land is held by the United States of America for the use and benefit of Indian Tribe. Title on restricted tribal land is seldom transferred. Typically tribes will lease tribal trust land, but ownership, restricted by the Federal trust, remains with the tribe.

Mortgages are available for leaseholds subject to a tribal lease. Mortgages on tribal trust sites must include the lease signed by the mortgagor and Tribal authority and approved by the BIA. Any exceptions should be supported by the tribal attorney and accepted by the lender

Several types of tribal leases exist around the country. Leases involving government residential loan programs available to tribal members typically have simple terms. For these properties, leases will generally be subject to a long-term ground lease (for example 50 years or a 25-year lease with a 25-year renewable term). Rents are usually minimal with predictable increases (if any). Other tribal leases involving non-tribal or non-Indian lessees are generally more complex. They typically will involve rents close to or at market, with possible cost-of-living adjustments and perhaps shorter terms. Some are subject to a master lease. The variations make it mandatory for the appraiser to review the lease and all documents pertaining to it.

- **ALLOTTED (OR INDIVIDUAL) TRUST LAND**—Allotted trust land may be owned by an individual or as a family in undivided interest (fractionated). The land is held in trust by the United States government and is restricted against non-tribal sales or encumbrances without the BIA's approval.

Mortgages on allotted (or individual) trust sites normally do not involve a lease, and the mortgage will encumber the land. A specific mortgage rider or approval is required. Binding loans must have a Deed of Trust Rider (or similar document) approving the mortgage pursuant to 25 U.S.C. 483 (a) and approved by the BIA. This Rider provides for the land status to be moved into fee simple if a default occurs.

Because the land is owned by the individual and is encumbered by the mortgage and the lender is able to perfect its lien, the value given for the land should be consistent with other allotted or fee simple land sales. Processing includes consideration of all applicable approaches to value and documentation of the assumptions and conclusions developed.

Fractionated heirship occurs when multiple owners have an undivided interest in the same parcel. It is created when family members inherit an interest in allotted trust land from a Native American ancestor. Most mortgage programs require the encumbered homesite to be subdivided out and recorded in a single mortgagor's name. Occasionally a tribe and lender will develop a special loan program that will utilize a long term lease to the individual. In either situation all multiple owners must agree.

- **TITLE INFORMATION ON INDIAN LANDS**—Information concerning ownership and encumbrances involving restricted Indian lands must be obtained from the BIA or Tribal Realty Office. The limitation against alienation prescribes a process under the administration of the Secretary of the Interior, Bureau of Indian Affairs (BIA). Title information is maintained by the BIA at their Land Title and Records Offices and is documented in the “Title Status Report” (TSR). Lenders are encouraged to make contact with the appropriate BIA and Tribal realty officers early in the loan processing because underwriters and appraisers need to review the TSR during loan processing. Any questions about the trust or ownership status should be clarified by the BIA before processing the appraisal. Upon the conclusion of loan processing, the encumbrance is approved by the appropriate BIA designee, recorded, and the Land Title and Records Office will issue a certified TSR. All loans must comply with this requirement and lenders are encouraged to maintain such verification in the loan file.

### **Approaches To Value**

The appraiser must review the TSR and be familiar with the different restrictions to develop an appropriate value estimate for the subject property. The availability of comparable sales and rental transactions vary between locations and by tribes. In addition to the typical data sources, the appraiser may obtain sales information from the local tribal or Bureau of Indian Affairs (BIA) realty office. To the extent the markets are similar, sales from other reservations within the region may be considered. The appraiser may need to rely on other value indicators to support a reasonable value conclusion. If similar or paired sales are not available to significantly support the value estimate, the appraisal process must be documented more thoroughly than a typical market approach USPAP Standards #1 and # 2 are effective to allow the appraiser to “correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal.” And “in reporting the results of a real property appraisal an appraiser must communicate each analysis, opinion and conclusion in a manner that is not misleading.” The appraiser must document the search, information developed and conclusions clearly for the intended users.

### **DETERMINE THE IMPACT OF TRIBAL TRUST LEASEHOLD ESTATES**

Prior to developing an appraisal, the appraiser must determine the real property interest being appraised. On leasehold estates, the appraiser must review the TSR and the lease to analyze their effect on value and on the use of the property.

As stated earlier, lease rents may vary from a basic \$1.00 per year to a monthly or annual rent that reflects the local market. Some leases require an upfront lease acquisition fee. Appraisal methodology provides different processes for estimating the impact of the land rent on the value of the leasehold. They typically involve determining an estimate of market value of the site as if it were fee simple; the term; a competitive rent; and a capitalization rate. A present value is determined, adjusted by any “upfront lease acquisition charge” and then consistently applied to each of the three different value approaches. The appraiser should be familiar with the processes used in the local market and discuss variations with their lender.

The appraiser should comment on any unusual limitations noted in the lease that would effect the property’s use, marketability, or value.

## COST APPROACH

In markets with limited sales data available, the cost approach may become the primary indication of value. The appraiser should use a cost approach which conforms to industry standards. It is important to remember to include the cost of water, septic, and any other on-site costs in the cost approach. In remote areas, the standard construction cost estimating guides or manuals may require adjusting for higher transportation, labor or other costs not included in the basic estimate. Any unusual adjustments must be fully discussed in the report.

Typically the impact of trust status would be reflected in the estimate of land value as part of the development of the cost approach. Allotted land should reflect the market value of other allotted land sales (if available). If the site is a leasehold, the land value section should be modified to clearly State the site estimate reflects a leasehold estate value of the site.

Unless there are ample market transactions available to support the Sales Comparison Approach, the cost approach should be completed on all appraisals involving restricted or trust sites. It may provide the support for value on existing construction as well as new homes. When used with existing construction, the approach must include a credible estimate of depreciation. Curable depreciation such as deferred maintenance should be discussed with the lender and reflected as agreed upon. The appraiser must attach an addendum explaining the assumptions supporting the indication of value by the cost approach.

## SALES COMPARISON APPROACH

Native American communities are developing economies at varying rates and degrees. Some communities have sales which reflect a market; others do not. Where sales are limited or non-existing, the appraiser may not be able to complete the market approach like the typical appraisal.

Whatever the situation, it is important for the lender to understand the economic factors which affect value. Therefore the appraiser must communicate the local tribal housing market. The sales comparison approach will generally be completed, but may reflect non-similar sales. Where no credible comparables are available, a narrative that discusses the market and provides any sales, rental or vacancy information pertinent to the subject must be developed within the context of supporting the value estimate developed from other value indicators.

Each situation will have unique factors and the appraiser should explain deviations from the typical sales comparison approach.

The impact of any trust status on the property's value must be included in the Sales Comparison Approach. If sales have similar status trust, minimal adjust is required. When the comparable sales include land, and the subject is a leasehold, an adjustment is required to reflect differences. The order of selection preferences for sales would depend on the type of property rights being appraised.

- Tribal Trust Leasehold sales (market sales between tribal members).
- Sales of allotted land trust between tribal members.
- Fee Simple within the Reservation.
- Fee Simple proximate to the Reservation sales.

## INCOME APPROACH

The income approach is generally not developed with regard to Native American trust land appraisals. However, if the appraiser determines it may be relevant, the appraiser should complete the income approach.

If the subject property includes a rental unit(s), the appraiser must provide an estimate of monthly rent for each unit(s) and note whether or not the rent is limited to the tribal sub-market. The appraiser should discuss the rental market and impact on value with the lender.

## **Reconciliation Of Value**

The appraiser must determine a credible value estimate for the restricted trust properties from the limited data available. Underwriters and reviewers must recognize

information may be limited and the report may take on characteristics of a narrative report rather than the typical form reports common in residential appraising. Where market information is limited, greater weight must be given to the replacement cost approach and the appraiser must document the decision process and the logic for the value determined. The appraiser must report if an approach was not developed and insert the rationale for exclusion of the approach.

### **Reporting Requirements**

The appraiser must communicate the analysis and conclusions in a way that is not misleading. Typically the purpose of the appraisal is to determine the value for the restricted allotment or leasehold estate with its subsequent use to provide supporting documentation for a mortgage. The format used to report the appraisal should be discussed between the lender and the appraiser to assure it will meet the lender's needs. Regardless of the form, the report must comply with the requirements of USPAP, Standard 2.

To the extent necessary the assumptions and decision process must be documented. A partial list of issues includes:

- On restricted land, clearly indicate the limitations involved with the land.
- Assure easements for utilities and access to the property are provided and recorded as necessary for the lender or third party to use the property (especially critical on allotted homesites).
- Indicate the standard of construction that must be met if the Tribe has an incomplete building code.
- Discuss issues like health and safety, obsolescence and deferred maintenance with the lender; and document any repairs that are basic to the property's long term use, or value.
- Provide the final conclusions that are clear and not misleading.

### **Create An Information Handout**

This document has stressed it is an introduction to Indian lending and appraisal issues. Each tribe has a history and structure that will influence the use of mortgage lending within its community. A suggested next step is that lenders and tribal representatives prepare an attachment to this information. The attachment could include such information as a short history of the tribe, discuss the land issues involved, and provide a list of name and telephone numbers of offices or individuals who could provide information during the appraisal or lending process. Such a summary would facilitate the process and encourage more appraisers to become involved.

## APPENDIX O

### **Legislative Recommendations by the One-Stop Mortgage Center Partners**

#### **Comprehensive Planning**

Tribes need the ability to access funding to engage in comprehensive planning. The recommend legislation to permit comprehensive community and economic development planning.

#### **Streamlining**

Currently, the Section 184 Loan Guarantee Program does not allow for refinancing. The Partners recommend providing the authority in Section 184 to give tribal members access to the equity in their homes—like any homeowner outside of Indian Country—for activities such as home improvements, education, small businesses and debt consolidation. It would also provide Native Americans the ability to refinance their homes to benefit from lower interest rates.

- **Increase loan limit for USDA’s Rural Development Housing program’s Section 504 Housing Repair Loan Program.**

USDA’s Section 504 has been extremely popular in Indian Country because it provides a direct loan for housing repair loans without requiring a leasehold interest. However, the loan amounts are too low for significant home repairs.

**SEC. \_\_\_\_.** The fourth sentence of section 504(a) of the Housing Act of 1949 (42 U.S.C. 1474(a)) is amended by striking “\$2,500” and inserting “\$7,500”.

- **Facilitate the Department of Veterans Affairs’ (VA) participation in the One-Stop Mortgage Center Initiative interagency process for Federal loan programs for Native Americans.**

Subsection (b) would amend 38 U.S.C. § 3762. Current law permits VA to make direct loans to Native American veterans living on tribal trust lands. One prerequisite to such loans is that the tribe and VA have entered into a Memorandum of Understanding (MOU) regarding the making and servicing of such loans. This amendment would waive the necessity for a separate MOU with



VA provided the tribe has entered into an MOU with another agency or instrumentality of the United States regarding federally-assisted loans on tribal lands. VA would be required to determine that the MOU contemplated VA direct loans, and the MOU contains the protections for the veteran and the VA mandated by the VA statute. This provision would also specify that, for purposes of a Native American Loan Program MOU, FNMA is considered a Federal agency.

Sec \_\_\_\_\_. Department of Veterans Affairs Loan Program Technical Amendments

**(b) MEMORANDUM OF UNDERSTANDING.** Section 3762(a) of title 38, United States Code, is amended by—

(1) Striking out at the end of clause (1) “and” and inserting in lieu thereof, “or”;

(2) Redesigning clause (2) as clause (3); and

(2) inserting after clause 1 the following new clause:

“(2) the tribal organization has entered into a Memorandum of Understanding with another agency or instrumentality of the United States regarding federally-assisted loans on trust land under the jurisdiction of such tribal organization, provided the Secretary determines that such Memorandum of Understanding

“(A) contemplates loans made under this subchapter;  
and

“(B) substantially conforms to the requirements of subsection (b) of this section.

“For purposes of this clause, the term ‘agency or instrumentality of the United States’ shall include the Federal National Mortgage Association; and”.